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Notice No

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I

(Information)

COMMISSION

Ecu ⁽¹⁾

29 January 1993

(93/C 27/01)

Currency amount for one unit:

Belgian and Luxembourg franc	40,1615	United States dollar	1,22081
Danish krone	7,52139	Canadian dollar	1,54774
German mark	1,95024	Japanese yen	152,198
Greek drachma	261,277	Swiss franc	1,79849
Spanish peseta	138,709	Norwegian krone	8,31126
French franc	6,59969	Swedish krona	8,84902
Irish pound	0,743352	Finnish markka	6,74252
Italian lira	1809,87	Austrian schilling	13,7207
Dutch guilder	2,19465	Icelandic krona	77,2039
Portuguese escudo	176,468	Australian dollar	1,79795
Pound sterling	0,814578	New Zealand dollar	2,36133

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day.

Users of the service should do as follows:

- call telex number Brussels 23789;
- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the ecu;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

Note: The Commission also has an automatic telex answering service (No 21791) providing daily data on calculation of monetary compensatory amounts for the purposes of the common agricultural policy.

(¹) Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ No L 189, 4. 7. 1989, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

Communication of Decisions under sundry tendering procedures in agriculture (cereals)

(93/C 27/02)

(See notice in Official Journal of the European Communities No L 360 of 21 December 1982,
page 43)

Standing invitation to tender	Weekly invitation to tender	
	Date of Commission Decision	Maximum refund
Commission Regulation (EEC) No 1343/92 of 26 May 1992 opening an invitation to tender for the refund for the export of durum wheat to countries of zones I, II, III, IV, V, VI, VII and VIII (OJ No L 145, 27. 5. 1992, p. 22)	28. 1. 1993	Tenders rejected
Commission Regulation (EEC) No 1356/92 of 26 May 1992 on a special intervention measure for barley in Spain (OJ No L 145, 27. 5. 1992, p. 58)	28. 1. 1993	ECU 85,95/tonne
Commission Regulation (EEC) No 1345/92 of 26 May 1992 opening an invitation to tender for the refund for the export of barley to countries of zones I, II, III, IV, V, VI, VII and VIII (OJ No L 145, 27. 5. 1992, p. 28)	28. 1. 1993	ECU 76,50/tonne
Commission Regulation (EEC) No 1346/92 of 26 May 1992 opening an invitation to tender for the refund for the export of common wheat to countries of zones I, II, III, IV, V, VI, VII and VIII (OJ No L 145, 27. 5. 1992, p. 31)	28. 1. 1993	ECU 59,99/tonne
Commission Regulation (EEC) No 1344/92 of 26 May 1992 opening an invitation to tender for the refund for the export of rye to countries of zones I, II, III, IV, V, VI, VII and VIII (OJ No L 145, 27. 5. 1992, p. 25)	28. 1. 1993	ECU 96,99/tonne
Commission Regulation (EEC) No 1910/92 of 10 July 1992 on a special intervention measure for durum wheat in Greece (OJ No L 192, 11. 7. 1992, p. 20)	—	No tenders received
Commission Regulation (EEC) No 2748/92 of 21 September 1992 on an invitation to tender for the refund on export of wholly milled round grain rice to certain third countries (OJ No L 279, 23. 9. 1992, p. 10)	28. 1. 1993	ECU 256,00/tonne
Commission Regulation (EEC) No 2749/92 of 21 September 1992 opening an invitation tender for the refund on export of wholly milled medium grain and long grain A rice to certain third countries (OJ No L 279, 23. 9. 1992, p. 12)	28. 1. 1993	ECU 265,00/tonne
Commission Regulation (EEC) No 2750/92 of 21 September 1992 an an invitation to tender for the refund on export of wholly milled medium grain and long grain A rice to certain third countries (OJ No L 279, 23. 9. 1992, p. 14)	28. 1. 1993	ECU 265,00/tonne
Commission Regulation (EEC) No 66/93 of 15 January 1993 opening an invitation to tender for the reduction in the levy on maize imported from third countries (OJ No L 10, 16. 1. 1993, p. 5)	28. 1. 1993	ECU 68,38 tonne
Commission Regulation (EEC) No 68/93 of 15 January 1993 opening an invitation to tender for the reduction in the levy on grain sorghum imported from third countries (OJ No L 10, 16. 1. 1993, p. 9)	—	No tender received

Prior notification of a concentration**(Case No IV/M.216 — CEA Industrie/France Télécom/Finmeccanica/SGS Thomson)**

(93/C 27/03)

1. On 21 January 1993 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 ⁽¹⁾ by which the undertakings CEA Industrie, France Télécom and Finmeccanica acquire within the meaning of Article 3 (1) b of the Regulation joint control of SGS Thomson Microelectronics Holding NV by way of purchase of shares and contracts.

2. The business activities of the undertakings concerned are:

- for CEA Industrie: nuclear power, computer services, biomedical products,
- for France Télécom: telecommunications, audiovisual sector, computer services,
- for Finmeccanica: holding company with investments in different sectors,
- for SGS Thomson: design, production and sale of semi-conductors.

3. Upon preliminary examination, the Commission finds that the notified concentration is liable to fall within the scope of Regulation (EEC) No 4064/89. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (fax No (32 2) 296 43 01) or by post, under reference number IV/M.216 — CEA Industrie/France Télécom/Finmeccanica/SGS Thomson, to the following address:

Commission of the European Communities,
Directorate General for Competition (DG IV),
Merger Task Force,
Avenue de Cortenberg, 150,
B-1049 Brussels.

⁽¹⁾ OJ No L 395, 30. 12. 1989; corrigendum: OJ No L 257, 21. 9. 1990, p. 13.

Delayed payments in commercial transactions

(93/C 27/04)

The Commission services have prepared a document on the problem of delayed or late payments in commercial transactions. The purpose of the document is to encourage a thorough debate among interested parties on the possible need for Community measures in this area and, if necessary, their nature.

Anybody interested in receiving a copy of this document, which is available in all Community languages, should contact Directorate-General XXIII (Enterprise Policy, Distributive Trades, Tourism and Cooperatives), Division A/1, rue d'Arlon 80, B-1040 Brussels (fax (32-2) 295 97 84).

Any comments are requested to be submitted to DG XXIII before 31 May 1993.

COURT OF JUSTICE

COURT OF JUSTICE

Action brought on 4 December 1992 by An Taisce — the National Trust for Ireland and WWF UK (World Wide Fund of Nature) against the Commission of the European Communities

(Case C-407/92)

(93/C 27/05)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 4 December 1992 by An Taisce — the National Trust of Ireland, of Tailor's Hall, Back Lane, Dublin 8, and WWF UK (World Wide Fund for Nature), of Panda House, Weyside Park, Catteshall Lane, Godalming, Surrey, GU7 1XR, England, represented by Gerard Bohan, solicitor of Messrs Arthur Cox, Dublin, with an address for service in Luxembourg at the chambers of Faltz and Associés, BP 1147.

The applicants request the Court to:

1. annul the Commission decisions, dated 7 October 1992, to the extent that the Commission has decided:
 - (a) not to suspend or withdraw the use of £ Irl 2,7 million of European Community Structural Funds in respect of an interpretative centre for visitors at Mullaghmore, The Burren, Co. Clare, Ireland;
 - (b) not to take infringement proceedings against Ireland pursuant to Article 169 of the EEC Treaty in relation to the application by Ireland of certain European Community Directives on environmental law, namely Council Directives 85/337/EEC ⁽¹⁾ and 80/68/EEC ⁽²⁾;
 - (c) not to take the said infringement proceedings against Ireland to the extent that this resulted in the effective release of £ Irl 2,7 million of European Community Structural Funds in respect of the interpretative centre at Mullaghmore;
2. order that the said £ Irl 2,7 million be reimbursed by Ireland to the European Community or alternatively that it be reallocated as part of the Operational Programme for Tourism in Ireland submitted by the Irish Government to the Commission on 6 March 1989;
3. award damages from the European Community for the loss which An Taisce and WWF UK have and will suffer as a result of the Commission's aforementioned decisions;

4. grant interest on such damages;

5. order the Commission to pay the applicants' costs in the action.

Pleas in law and main arguments adduced in support:

The applicants submit that the defendant's decision of 7 October 1992 effectively to release £ Irl 2,7 million in Community Structural Funds to fund the interpretative centre at Mullaghmore, and the defendant's decision of the same date not to take infringement proceedings against Ireland pursuant to Article 169 of the EEC Treaty in relation to the application of Directives 85/337/EEC and 80/68/EEC, although addressed to another person, namely, Ireland, are of direct and individual concern to the applicants and that, consequently, the applicants have *locus standi* to take proceedings against the said Decisions pursuant to the terms of Article 173 (2) of the EEC Treaty.

The applicants submit that in taking the aforementioned decisions the Defendant acted in infringement of the EEC Treaty and rules of law applying to the Treaty's application and, further, misused its powers, within the meaning of Article 173 (1):

Article 130R of the EEC Treaty

The applicants submit that in deciding effectively to release the use of Structural Funds in relation to the interpretative centre at Mullaghmore the defendant failed to uphold and apply the principles contained in Article 130R of the EEC Treaty. In particular, the defendant failed to preserve, protect and improve the quality of the environment, as required by Article 130R (1). The building of an interpretative centre at Mullaghmore would cause serious damage to the quality of the surrounding environment.

Regulation (EEC) No 2052/88 ⁽³⁾

The applicants submit that in deciding to release funding in relation to the interpretative centre at Mullaghmore the defendant failed to ensure that Community Structural Funds will be used in compliance with Community law and policy on environmental protection. In particular, the building of an interpretative centre at Mullaghmore would cause serious damage to the surrounding environment. The applicants therefore submit that the defendant acted in breach of Article 7 (1) of Regulation (EEC) No 2052/88.

Directive 92/43/EEC ⁽⁴⁾

The applicants submit that the defendant should have taken into account both the terms and policy of

⁽¹⁾ OJ No L 175, 5. 7. 1985, p. 40.

⁽²⁾ OJ No L 20, 26. 1. 1980, p. 43.

⁽³⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽⁴⁾ OJ No L 206, 22. 7. 1992, p. 7.

Directive 92/43/EEC in reaching its decision in relation to Mullaghmore. The applicants submit that the defendant itself is bound by the terms of a directive once it has been adopted even if the directive has not yet been implemented by all the Member States.

The Berne Convention

The applicants submit that the Community would be in breach of its obligations under the Convention if it funded the construction of the interpretative centre at Mullaghmore.

Fundamental rights

In relation to An Taisce, as an owner of property affected by the construction of the interpretative centre, An Taisce's property rights have been infringed without justification by the defendant's decision. Furthermore the rights to environmental protection under Community law of An Taisce and of the WWF UK will also be infringed as the interpretative centre will be to the detriment of the surrounding environment.

Directives 85/337/EEC and 80/68/EEC

The applicants submit that the defendant's decision that the impact study and public consultations carried out by the Office of Public Works satisfied the guarantees of Directive 85/337/EEC was incorrect as that study was inadequate and flawed. They also submit that the defendant erred in accepting that Ireland's undertaking not to discharge effluent into ground water in advance of the issue of authorization provided for by Directive 80/868/EEC, and Ireland's undertaking to honour fully the spirit and substance of the Directive in execution of the project at Mullaghmore (although it had failed to transpose the Directive into Irish law despite a date for implementation of 17 December 1981) were sufficient to constitute compliance with Directive 80/68/EEC.

Action brought on 14 December 1992 by Chantal Hebette against the Court of Auditors of the European Communities

(Case C-416/92)

(93/C 27/06)

An action against the Court of Auditors of the European Communities was brought before the Court of Justice of the European Communities on 14 December 1992 by Chantal Hebette, represented by George Vandersanden, of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Alex Schmitt, 62 Avenue Guillaume.

The applicant claims that the Court should:

— declare the application admissible and well founded;

— consequently, annul pursuant to the second paragraph of Article 173 of the EEC Treaty, the decision taken on 12 October 1992 by the competent authority of the Court of Auditors wrongly determining the survivor's pension granted to the applicant and the survivors' pensions granted to her children on account of the death of her husband, who was a Member of the Court of Auditors;

— order the defendant to pay the whole of the costs.

Pleas in law and main arguments adduced in support:

- Misapplication of the rules on the emoluments of Members of the Court of Auditors: the provision applying to the applicant's case is the first indent of the second subparagraph of Article 16 (1) of those rules. That provision lays down special rules applying to the widow of a Member of the Court of Auditors where his death occurred during his term of office; in such a case, the survivor's pension does not depend on the actual length of the deceased Member's term of office. The defendant wrongly seeks to apply the provision relating to total amounts of survivors' pensions which is set out in Article 16 (2) of the rules. Likewise, that provision relating to total amounts should apply to the orphans' pensions of the applicant's children without taking the applicant's flat-rate pension into account.
- Infringement of the principle of non-discrimination having regard to the practice followed by other institutions (Court of Justice and Commission).

Reference for a preliminary ruling, made pursuant to the order of the Arbeitsgericht Hamburg dated 4 November 1992 in the case of Elke Herzog v. Arbeiter-Samariter-Bund Landesverband Hamburg eV

(Case C-425/92)

(93/C 27/07)

Reference has been made to the Court of Justice of the European Communities by order of the Arbeitsgericht Hamburg [Hamburg Labour Court] — 18th Chamber — of 4 November 1992, which was received at the Court Registry on 21 December 1992, for a preliminary ruling in the case of Elke Herzog v. Arbeiter-Samariter-Bund Landesverband Hamburg eV on the following questions:

1. Is it consistent with Community law (Article 119 of the EEC Treaty) for a rule contained in a collective agreement (paragraph 34 of the BAT), applying to an individual employment relationship by virtue of a business practice or an actual collectively agreed obligation, to provide that the pay of employees not engaged on a full-time basis who work longer hours than those contractually agreed in respect of part-time work is to amount only to the corresponding proportion of the pay of an equivalent employee engaged on a full-time basis (without overtime

supplement), where the rule affects more women than men in percentage terms?

2. Is the different treatment of those two categories of employee justified by objective factors having nothing to do with discrimination on the grounds of sex?

Can the different treatment of the sexes be justified on the ground that such different treatment meets a real need of the undertaking, is appropriate for the achievement of its goals and is necessary in accordance with the principle of proportionality, where it is claimed in support of such arguments that the different treatment is justified on the ground that overtime supplements are intended to compensate for an increased physical burden and to prevent the imposition of excessive demands upon employees, but that no comparable burden is imposed upon a part-time employee where the latter merely exceeds the contractually agreed working hours without working the normal weekly hours (on average 38,5 hours) worked by a full-time employee (see paragraphs 17 (1) and 15 (1) of the BAT)?

Action brought on 4 January 1993 by the Commission of the European Communities against the Grand Duchy of Luxembourg

(Case C-3/93)

(93/C 27/08)

An action against the Grand Duchy of Luxembourg was brought before the Court of Justice of the European Communities on 4 January 1993 by the Commission of the European Communities, represented by Xavier Lewis, a member of its legal Service, acting as Agent, with an address for service in Luxembourg at the office of Roberto Hayder, a representative of its Legal Service, Wagner Centre, Kirchberg.

The applicant claims that the Court should:

1. declare that, by failing to bring into force within the prescribed period the laws, regulations and administrative provisions necessary to comply with Council Directive 88/599/EEC ⁽¹⁾ on standard checking procedures for the implementation of Regulation (EEC) No 3820/82 ⁽²⁾ on the harmonization of certain social legislation relating to road transport and Regulation (EEC) No 3821/85 ⁽³⁾ on recording equipment in road transport and/or by failing to communicate them to the Commission, the Grand Duchy of Luxembourg has failed to fulfil its obligations pursuant to Article 7 of that Directive and pursuant to Articles 5 and 189 of the EEC Treaty;
2. order the defendant to pay the costs.

Pleas in law and main arguments adduced in support:

Article 189 of the EEC Treaty, which provides that a directive is to be binding, as to the result to be achieved, upon each Member State to which it is addressed, imposes on Member States an implied obligation to comply with the periods prescribed in directives for their transposition into national law. The period prescribed in this case expired on 1 January 1989, yet the Grand Duchy of Luxembourg has failed to bring into force the provisions necessary to comply with the Directive concerned.

The fact that a practice accords with the aims of a directive can provide no ground for not transposing it into the domestic legal system by means of provisions capable of creating a situation which is clear, precise and transparent.

⁽¹⁾ OJ No L 325, 29. 11. 1988, p. 55.

⁽²⁾ OJ No L 370, 31. 12. 1985, p. 1.

⁽³⁾ OJ No L 370, 31. 12. 1985, p. 8.

II

(Preparatory Acts)

COMMISSION

Amended proposal for a Council Directive harmonizing the term of protection of copyright and certain related rights ⁽¹⁾

(93/C 27/09)

COM(92) 602 final — SYN 395

(Submitted by the Commission pursuant to Article 149 (3) of the EEC Treaty on 7 January 1993)

⁽¹⁾ OJ No C 92, 11. 4. 1992, p. 6.

ORIGINAL PROPOSAL

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 57 (2), 66, 100a and 113 thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the Berne Convention for the protection of literary and artistic works and the Rome Convention for the protection of performers, producers of phonograms and broadcasting organizations lay down only minimum terms of protection of the rights they refer to, leaving the Contracting States free to grant longer terms; whereas certain Member States have exercised this entitlement; whereas in addition certain Member States have not become party to the Rome Convention;

Whereas there are consequently differences between the national laws governing the terms of protection of copyright and related rights, which are liable to impede the free movement of goods and freedom to provide services, and to distort competition in the common market; whereas, therefore, with a view to the establishment of the internal market and its operation thereafter, the laws of the Member States should be harmonized so as to make terms of protection identical throughout the Community;

AMENDED PROPOSAL

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Unchanged

Whereas harmonization must cover not only the terms of protection as such, but also certain implementing arrangements such as the date from which each term of protection is calculated; whereas therefore it is necessary to harmonize the definition of authorship of a cinematographic or audiovisual work;

ORIGINAL PROPOSAL

AMENDED PROPOSAL

Whereas the minimum term of protection laid down by the Berne Convention, namely the life of the author and 50 years after his death, was intended to provide protection for the author and the first two generations of his descendants; whereas the average lifespan in the Community has grown longer, to the point where this term is no longer sufficient to cover two generations;

Whereas certain Member States have granted a term longer than 50 years after the death of the author in order to offset the effects of the world wars on the exploitation of authors' works;

Whereas at the 1967 Stockholm conference for the revision of the Berne Convention certain Member States' delegations approved a resolution asking the Contracting States to extend the term of copyright protection; whereas in the discussions which have taken place within the World Intellectual Property Organization (WIPO) in preparation for a possible Protocol to the Berne Convention this question has been put on the agenda;

Whereas for the protection of related rights certain Member States have introduced a term of 50 years after publication or dissemination; whereas in other Member States which are currently preparing legislation on the subject the term of protection chosen is likewise 50 years;

Whereas the Community proposals for the Uruguay Round negotiations under the General Agreement on Tariffs and Trade (GATT) provide for a term of protection for producers of phonograms of 50 years after first publication;

Whereas due regard for established rights is one of the general principles of law protected by the Community legal order; whereas, therefore, a harmonization of the terms of protection of copyright and related rights cannot have the effect of reducing the protection currently enjoyed by rightholders in the Community; whereas in order to keep the effects of transitional measures to a minimum and to allow the internal market to begin operating in practice on 31 December 1992, the harmonization of the term of protection should take place on the basis of a long term;

Whereas in its communication of 17 January 1991 'Follow-up to the green paper — Working programme of the Commission in the field of copyright and neighbouring rights' ⁽¹⁾, the Commission stresses the need to harmonize copyright and neighbouring rights at a high level of protection since these rights are fundamental to intellectual creation and their protection ensures the maintenance and development of creativity in the interest of authors, cultural industries, consumers and society as a whole;

Unchanged

⁽¹⁾ COM(90) 584 final.

ORIGINAL PROPOSAL

AMENDED PROPOSAL

Whereas in order to establish a high level of protection which at the same time meets the requirements of the internal market and the need to establish a legal environment conducive to the harmonious development of literary and artistic creation in the Community, the term of protection for copyright should be harmonized at 70 years after the death of the author or 70 years after the work is lawfully made available to the public, and for related rights at 50 years after the event which sets the term running;

Whereas these terms should be calculated from the first day of January of the year following the relevant event, as they are in the Berne and Rome Conventions;

Whereas Article 1 of Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programmes⁽¹⁾ provides that Member States are to protect computer programmes, by copyright, as literary works within the meaning of the Berne Convention (Paris Act 1971); whereas the present Directive harmonizes the term of protection of literary works in the Community; whereas Article 8 of Directive 91/250/EEC, which merely makes provisional arrangements governing the term of protection of computer programmes, should accordingly be repealed;

Whereas Articles 9 and 10 of Council Directive .../.../EEC on rental right, lending right, and on certain rights related to copyright make provision for minimum terms of protection only, subject to any later harmonization; whereas these Articles should be repealed, in order to align the terms of protection of those rights on the terms laid down in this Directive;

Whereas under the Berne Convention photographic works qualify for a minimum term of protection of only 25 years from their making; whereas, moreover, certain Member States have a composite system for the protection of photographic works, which are protected by copyright if they are considered to be artistic works within the meaning of the Berne Convention and protected under one or more other arrangements if they are not so considered; whereas provision should be made for the complete harmonization of these differing terms of protection;

Whereas in order to avoid differences in the term of protection it is necessary that when a term of protection begins to run in one Member State it should begin to run throughout the Community;

Whereas Article 6 (a) (2) of the Berne Convention provides that the moral rights of the author are to be maintained after his death at least until the expiry of the economic rights; whereas that provision can usefully be taken over in this Directive, without prejudice to any possible later harmonization of moral rights;

⁽¹⁾ OJ No L 122, 17. 5. 1991, p. 42.

Whereas Articles 11 and 12 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⁽¹⁾ make provision for minimum terms of protection only, subject to any later harmonization; whereas these Articles should be repealed, in order to align the terms laid down in this Directive;

Unchanged

⁽¹⁾ OJ No L 346, 27. 11. 1992, p. 61.

ORIGINAL PROPOSAL

Whereas the terms of protection laid down in this Directive should also apply to literary and artistic works whose country of origin within the meaning of the Berne Convention is a third country, but protection should not exceed that fixed in the country of origin of the work;

Whereas where a rightholder who is not a Community national qualifies for protection under an international agreement the term of protection of related rights should be the same as that laid down in this Directive, except that it should not exceed that fixed in the country of which the rightholder is a national;

Whereas this provision must not be allowed to bring Member States into conflict with their international obligations; whereas international obligations may require the Member States to accord different treatment to third-country nationals and their works, and this may lead to disturbances on the Community market; whereas a procedure should therefore be laid down which enables such difficulties to be remedied;

Whereas rightholders should be able to enjoy the longer terms of protection introduced by this Directive equally throughout the Community provided their rights have not yet expired on 31 December 1994,

HAS ADOPTED THIS DIRECTIVE:

Article 1

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 70 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. In the case of anonymous or pseudonymous works, of works considered under the legislation of a Member State to have been created by a legal person and of collective 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.

4. Anonymous or pseudonymous works shall not be protected if it is reasonable to presume that their author has been dead for seventy years.

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.

AMENDED PROPOSAL

Whereas, for the smooth functioning of the single market, this Directive must be applied immediately it enters into force, while ensuring that rights legitimately acquired by third parties are safeguarded,

Unchanged

ORIGINAL PROPOSAL

6. In the case of collective works or works created by a legal person, if publication as referred to in paragraph 3 has not taken place, the work shall be protected for 70 years from its creation.

Article 2

1. The rights of performers shall run for 50 years from the first publication of the fixation of the performance or if there has been no publication of the fixation, from the first dissemination of the performance. However, they shall expire 50 years after the performance if there has been no publication or dissemination during that time.

2. The rights of producers of phonograms shall run for 50 years from the first publication of the phonogram. However, they shall expire 50 years after the fixation was made if the phonogram has not been published during that time.

3. The rights of producers of the first fixations of cinematographic works and of sequences of moving images, whether or not accompanied by sound, shall expire 50 years after the first publication. However, they shall expire 50 years after the fixation was made if the work or sequence of moving images has not been published during that time.

4. The rights of broadcasting organizations shall run for 50 years from the first transmission of a broadcast.

Article 3

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

AMENDED PROPOSAL

6. In the case of collective works or works created by a legal person which have not been made lawfully available to the public within 70 years from their creation, the protection expires.

Article 1a

1. The authors of a cinematographic or audiovisual work shall be the natural persons who made the intellectual creation of the work.

2. The principal director shall be considered as one of its authors.

3. The Member States may provide, without prejudice to Article 2, paragraph 6 of Directive 92/100/EEC, that when a contract concerning the production of a cinematographic or audiovisual work is concluded, individually or collectively, the authors of the work shall be presumed, subject to contractual clauses to the contrary, to have authorized the exploitation of their work.

Article 2

1. The rights of performers shall run for 50 years from the point at which the fixation of a performance is lawfully published for the first time or, if this has not occurred, after the first lawful communication to the public of the performance if neither of the above has taken place during that time.

Unchanged

Article 2a

Any person who for the first time makes lawfully available to the public a work the copyright protection of which has expired, shall benefit from a protection equivalent to the economic rights of the author. The term of protection of such rights shall be 25 years from the time when the work was first lawfully made available to the public.

Unchanged

ORIGINAL PROPOSAL

AMENDED PROPOSAL

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, 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.

4. Pending the conclusion of any future international agreements on the term of protection by copyright or related rights, the decision may be taken by means of the procedure set out in Article 9:

- (a) to waive or to vary the rule requiring a comparison of the terms of protection in certain third countries which is laid down in paragraphs 2 and 3, particularly in order to prevent Member States from being brought into conflict with their international obligations; in any event, however, the term granted may not exceed that laid down in Articles 1 and 2;
- (b) to take appropriate measures where protection is granted to third-country nationals by some Member States only, and this fact causes appreciable distortion of competition or deflection of trade in the Community market.

Article 5

The terms laid down in this Directive shall run from the first day of January of the year following the event which gives rise to them.

Article 6

1. This Directive shall apply to rights which have not expired on or before 31 December 1994. However, this Directive shall not have the effect of shortening terms of protection which under the laws of Member States are already running.

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

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, 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.

Unchanged

Article 5

The terms of protection subsequent to the death of the author and the terms provided by Article 1 paragraphs 3 to 6 and Articles 2 and 2a shall run from the event which gives rise to them in each particular case. However, the length of these terms shall be calculated only from the first day of January of the year following the death or the event which gives rise to them.

Article 6

Deleted

Unchanged

ORIGINAL PROPOSAL

AMENDED PROPOSAL

Article 7

1. Article 8 of Directive 91/250/EEC is hereby deleted.
2. Articles 9 and 10 of Directive .../.../EEC 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 12 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.

Article 6a

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 to all works and objects which are protected at least in one Member State, on the date of adoption of the present Directive, under the application of national provisions on copyright or related rights or meet the criteria for protection under the provisions of Council Directive 92/100/EEC.
3. Member States shall adopt the necessary provisions which need to be taken by virtue of Community law and national law in order to protect acquired rights and legitimate expectations of third parties.
4. The present Article is without prejudice to Article 13 of Directive 92/100/EEC.
5. Member States may determine the date from which Article 1*bis* shall apply, provided that that date is no later than 1 July 1997.

Unchanged

2. Articles 11 and 12 of Directive 92/100/EEC are hereby deleted.

Unchanged

Deleted

Unchanged

ORIGINAL PROPOSAL

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 31 December 1992.

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.

AMENDED PROPOSAL

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.

Unchanged

Proposal for a Council Regulation (EEC) amending Regulation (EEC) No 3013/89 on the common organization of the market in sheepmeat and goatmeat and Regulation (EEC) No 1323/90 instituting specific aid for sheep and goat farming in certain less-favoured areas of the Community

(93/C 27/10)

COM(93) 8 final

(Submitted by the Commission on 12 January 1993)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas Article 24 of Regulation (EEC) No 3013/89 ⁽¹⁾, as last amended by Regulation (EEC) No 2069/92 ⁽²⁾, laid down transitional provisions for 1990, 1991 and 1992 on condition that the United Kingdom applied the variable slaughter premium, in order to achieve gradually a single premium scheme not later than 1993; whereas the United Kingdom decided to abolish the said premium from the beginning of the 1992 marketing year; whereas, however, in view of the monetary upheavals which have had considerable negative effects on the Community market in sheepmeat in 1992, particularly in Ireland and Northern Ireland, the transitional provisions should be extended until the end of the 1992 marketing year for that area;

Whereas, in view of the said monetary upheavals, the specific aid provided for under the rural society measures introduced in Regulation (EEC) No 1323/90 ⁽³⁾, as last amended by Regulation (EEC) No 1743/91 ⁽⁴⁾, should be increased for that year,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph is hereby inserted in Article 24 of Regulation (EEC) No 3013/89:

'7a. With regard to the 1992 marketing year, paragraph 7 shall apply even if the United Kingdom no longer has recourse to that paragraph.'

Article 2

The following Article is inserted in Regulation (EEC) No 1323/90:

Article 1a

Notwithstanding Article 1, for the 1992 marketing year the unit amounts of the specific aid shall be as follows:

- ECU 7 per ewe for the producers referred to in Article 5 (2) and (4) of Regulation (EEC) No 3013/89,
- ECU 4,9 per ewe for the producers referred to in Article 5 (3) of that Regulation,
- ECU 4,9 per she-goat for producers referred to in Article 5 (5) of that Regulation,
- ECU 4,9 per female of the ovine species where the second subparagraph of Article 5 (8) of that Regulation is applied.'

Article 3

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

⁽¹⁾ OJ No L 289, 7. 10. 1989, p. 1.

⁽²⁾ OJ No L 215, 30. 7. 1992, p. 59.

⁽³⁾ OJ No L 132, 23. 5. 1990, p. 17.

⁽⁴⁾ OJ No L 163, 26. 6. 1991, p. 44.

III

(Notices)

EUROPEAN PARLIAMENT

Notice concerning the organization of an open competition

(93/C 27/11)

The Secretariat of the European Parliament is organizing open competition

— No PE/114/C — for French-language typists ⁽¹⁾

(career bracket C 5/C 4).

⁽¹⁾ OJ No C 27 A, 30. 1. 1993 (French edition).

