Intellectual property, original works of art: resale right for the benefit of the author

1996/0085(COD) - 27/09/2001 - Final act

PURPOSE : to adopt a Directive on the resale right for the benefit of the author of an original work of art. COMMUNITY MEASURE : Directive 20014/84/EC of the European Parliament and of the Council on the resale right for the benefit of the author of an original work of art. CONTENT : with regard to the scope of the Directive, Member States shall provide, for the benefit of the author of an original work of art, a resale right, to be defined as an inalienable right, which cannot be waived, even in advance, to receive a royalty based on the sale price obtained for any resale of the work, subsequent to the first transfer of the work by the author. This right shall apply to all acts of resale involving as sellers, buyers or intermediaries art market professionals, such as salesrooms, art galleries and, in general, any dealers in works of art. Member States may provide that the right referred to above shall not apply to acts of resale where the seller has acquired the work directly from the author less than three years before that resale and where the resale price does not exceed EUR 10000. The royalty shall be payable by the seller. Member States may provide that one of the specified natural or legal persons other than the seller shall alone be liable or shall share liability with the seller for payment of the royalty. As regards the works of art to which the resale right relates, these include works of graphic or plastic art such as pictures, collages, paintings, drawings, engravings, prints, lithographs, sculptures, tapestries, ceramics, glassware and photographs, provided they are made by the artist himself or are copies considered to be original works of art. Moreover, copies of works of art covered by this Directive, which have been made in limited numbers by the artist himself or under his authority, shall be considered to be original works of art for the purposes of this Directive. Such copies will normally have been numbered, signed or otherwise duly authorised by the artist. It shall be for the Member States to set a minimum sale price from which the sales referred to in Article 1 shall be subject to resale right. This minimum sale price may not under any circumstances exceed EUR 3000. The royalty provided for shall be set at the following rates: a) 4 % for the portion of the sale price up to EUR 50000; b) 3 % for the portion of the sale price from EUR 50000,01 to EUR 200000; c) 1 % for the portion of the sale price from EUR 200000,01 to EUR 350000; d) 0,5 % for the portion of the sale price from EUR 350000,01 to EUR 500000; e) 0,25 % for the portion of the sale price exceeding EUR 500000. However, the total amount of the royalty may not exceed EUR 12500. If the minimum sale price set should be lower than EUR 3000, the Member State shall also determine the rate applicable to the portion of the sale price up to EUR 3000; this rate may not be lower than 4 %. By way of derogation, those Member States which do not apply the resale right on 13/10/2001, shall not be required, for a period expiring not later than 1 January 2010, to apply the resale right for the benefit of those entitled under the artist after his/herdeath. The Commission shall submit to the European Parliament, the Council and the Economic and Social Committee not later than 1 January 2009 and every four years thereafter a report on the implementation and the effect of this Directive. ENTRY INTO FORCE : 13/10/2001.