Authors'rights, related rights: Community framework for collecting societies

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This document consists of the report from the Commission on the question of authorship of cinematographic or audiovisual works in the Community. This report demonstrates, the partial harmonisation of the notion of authorship has strengthened the position of the principal director of a cinematographic or audiovisual work as one of its authors. Community legislative acts have not, however, resulted in complete harmonisation of the first ownership of rights in these works. Differences in detail still exist with respect to the question of who, among the group of persons involved in the making of the film, are to be considered as co-authors besides the principal director. Contrary to the fears expressed before the adoption of the Directive 92/100/EEC, there is no evidence that vesting original authorship in the principal director of a film would have caused difficulties in the exploitation or distribution of films, or in the effective tackling of piracy and other unauthorised use of such works. In practice, potential difficulties resulting from disparities in Member States' legislation are levelled by contractual arrangements. Along with the above mentioned contractual agreements, Member States provide for statutory rules on transfer of rights in these works and underlying works to the producer with the intention of assuring the efficient exploitation of cinematographic and audiovisual works. At least, such rules on transfer of rights are provided for with respect to certain exploitation rights, or in the form of statutory rules concerning works made in the course of employment. These rules differ to a fairly large extent also with regard to both the methods used and authors covered. These differences seem not to have caused major difficulties in practice as also they are levelled out by contractual arrangements. In conclusion, the overall results show that the partial harmonisation of the notion of authorship of cinematographic or audiovisual works has had a noticeable effect on contractual arrangements involving contributors and producers of cinematographic and audiovisual works. These arrangements would have to be subject to continued scrutiny in order to ensure a proper contractual balance and safeguard the functioning of the Internal Market. The Commission will continue to study the issue of first ownership of rights and transfer of rights together with the examination of issues relating to the management of rights in general and analyse further developments in these fields.