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

1996/0085(COD) - 13/03/1996 - Legislative proposal

OBJECTIVE: the proposal for a European Parliament and Council directive seeks to establish harmonized legal arrangements governing the resale right for the benefit of the author of an original work of art. SUBSTANCE: the proposal for a directive includes the following provisions: - on the basis of the Berne Convention for the Protection of Literary and Artistic Works, the proposal for a directive determines the subject matter of the right. The Member States provide, for the benefit of the author of an original work of art, an artist's resale right defined as an inalienable right to receive a percentage of the sale price obtained from any resale of the work, with the exception of transactions effected by individuals acting in their private capacity; - definition of an original work of art: manuscripts and works of plastic art (pictures, collages, paintings, drawings, engravings, prints, lithographs, sculptures, tapestries, ceramics and photographs), provided that they are made by the artist himself or are copies considered to be original works of art according to professional usage in the Community; - the resale right is collected when the sale price is equal to or higher than ECU 1000. Member States may fix a national threshold which is lower than the Community threshold; - the royalty collected is set at the following rates: 4% of the sales price for the band between ECU 1000 and ECU 50 000; 3% for the band between ECU 50 000 and ECU 250 000; 2% for sums in excess of ECU 250 000. This royalty is payable by the seller; - the royalty collected is payable to the author of the work and, after his death, to those entitled under him; - entitlement to the resale right is restricted to EU nationals and foreign authors whose countries grant similar protection to Community authors; - the resale right will last until 70 years after the artist's death, in accordance with Directive 93/98/EEC on the protection of copyright; - finally, suitable procedures for the monitoring of transactions will help to ensure the effective enforcement of the resale right; for example, the author or his authorized representative may obtain information from the person liable to pay royalties. The monitoring procedures must apply without prejudice to the provisions governing the protection of private life.