Industrial property: legal protection of designs

1993/0464(COD) - 19/06/1997 - Commission communication on Council's position

The European Commission considers that the adoption of this common position constitutes important progress towards the provision of effective legal protection for industrial designs and models throughout the European Union. However, it regrets that the common position does not allow the single market to be fully achieved in respect of spare parts owing to the rejection of the "repairs clause". In this respect the Commission has expressed its regrets in a statement which has been included in the minutes of the Council. On the same subject, it is helpful to recall that the Commission has, without success, proposed alternative solutions to Article 14 of its amended proposal, these mainly concerning transitional periods for the transposition of the repairs clause into national law. However, due to lack of a sufficient majority in the Council, these solutions could not be adopted. Nevertheless, the Commission considers that the Council has partly responded to the concerns of Parliament and the Commission on this precise point by excluding from protection, for example, those component parts which do not remain visible during normal use (such as oil filters, fan belts and other motor parts). Furthermore, the common position sets a relatively high protection threshold for designs and models (criteria on "novelty" and "individual character") such that certain motor vehicle parts which remain visible when the vehicle is in normal use could be excluded from the protection granted to designs and models. As far as the "status quo clause" is concerned, the Commission considers that this does not express fully and correctly the objectives of the Council, namely to maintain the status quo for Member States in respect of the protection and use of spare parts (for vehicle repair purposes). This clause should therefore be improved. The Commission will continue to explore, along with all the institutions concerned, the possibilities of finding a better solution, within the scope of this Directive, to the problems of the protection and use of spare parts.