Industrial property: legal protection of designs

1993/0464(COD) - 15/09/1998 - Text adopted by Parliament, 3rd reading

Adopting the report by Mr Manuel MEDINA ORTEGA (PSE, E), the European Parliament approved the joint proposal agreed between the European Parliament and the Council on 24 June 1998. The compromise approved by plenary primarily concerns article 14 of the directive relating to the ?repairs clause?, i.e. the conditions subject to which car garages and workshops may carry out repairs (using spare parts supplied by the manufacturer or manufactured by third parties). The solution which the negotiators worked out was to have a ?stand still +?, i.e. to freeze the existing legislative situation in each Member State while allowing any State to liberalise the market further. No obstacle will be allowed to the free movement of the parts in question. The Council therefore abandonned its position of seeking a ?free for all?, i.e. allowing Member States carte blanche to introduce or change national legal provisions. For its part, Parliament made concessions as regards a totally harmonised system of fair and reasonable remuneration for right holders for any use of the design or model of a component part which is used in the repair of a complex product. The other point at issue was the method to be used by the Commission to assess the consequences of the directive after its entry into force (article 18). Parliament wished to have a provision included in the text requiring the Commission to consult manufacturers of original parts and spare parts with the aim of arriving at a voluntary agreement between the parties on a system of fair and reasonable remuneration. Parliament finally accepted the Council?s request that this provision should not be incorporated into the text after receiving assurances from Commissioner Mario MONTI that the Commission would issue a declaration which referred to consultation and which would also be printed in the Official Journal along with the text of the directive. The results of consultation should be presented within 3 years of the deadline for the transposition of the directive into national law and should allow the European Commission to present any changes needed in order to complete the internal market in this area a year later (i.e. within 7 years).