

Directive 2001/29/EC of the European Parliament and of
the Council of 22 May 2001 on the harmonisation of certain
aspects of copyright and related rights in the information society

CHAPTER IV

COMMON PROVISIONS

Article 8

Sanctions and remedies

1 Member States shall provide appropriate sanctions and remedies in respect of infringements of the rights and obligations set out in this Directive and shall take all the measures necessary to ensure that those sanctions and remedies are applied. The sanctions thus provided for shall be effective, proportionate and dissuasive.

2 Each Member State shall take the measures necessary to ensure that rightholders whose interests are affected by an infringing activity carried out on its territory can bring an action for damages and/or apply for an injunction and, where appropriate, for the seizure of infringing material as well as of devices, products or components referred to in Article 6(2).

3 Member States shall ensure that rightholders are in a position to apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right.

Article 9

Continued application of other legal provisions

This Directive shall be without prejudice to provisions concerning in particular patent rights, trade marks, design rights, utility models, topographies of semi-conductor products, type faces, conditional access, access to cable of broadcasting services, protection of national treasures, legal deposit requirements, laws on restrictive practices and unfair competition, trade secrets, security, confidentiality, data protection and privacy, access to public documents, the law of contract.

Article 10

Application over time

1 The provisions of this Directive shall apply in respect of all works and other subject-matter referred to in this Directive which are, on 22 December 2002, protected by the Member States' legislation in the field of copyright and related rights, or which meet the criteria for protection under the provisions of this Directive or the provisions referred to in Article 1(2).

2 This Directive shall apply without prejudice to any acts concluded and rights acquired before 22 December 2002.

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Article 11

Technical adaptations

- 1 Directive 92/100/EEC is hereby amended as follows:
 - a Article 7 shall be deleted;
 - b Article 10(3) shall be replaced by the following:
3. The limitations shall only be applied in certain special cases which do not conflict with a normal exploitation of the subject-matter and do not unreasonably prejudice the legitimate interests of the rightholder.
- 2 Article 3(2) of Directive 93/98/EEC shall be replaced by the following:
 2. The rights of producers of phonograms shall expire 50 years after the fixation is made. However, if the phonogram has been lawfully published within this period, the said rights shall expire 50 years from the date of the first lawful publication. If no lawful publication has taken place within the period mentioned in the first sentence, and if the phonogram has been lawfully communicated to the public within this period, the said rights shall expire 50 years from the date of the first lawful communication to the public.

However, where through the expiry of the term of protection granted pursuant to this paragraph in its version before amendment by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society⁽¹⁾ the rights of producers of phonograms are no longer protected on 22 December 2002, this paragraph shall not have the effect of protecting those rights anew.

Article 12

Final provisions

- 1 Not later than 22 December 2004 and every three years thereafter, the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Directive, in which, *inter alia*, on the basis of specific information supplied by the Member States, it shall examine in particular the application of Articles 5, 6 and 8 in the light of the development of the digital market. In the case of Article 6, it shall examine in particular whether that Article confers a sufficient level of protection and whether acts which are permitted by law are being adversely affected by the use of effective technological measures. Where necessary, in particular to ensure the functioning of the internal market pursuant to Article 14 of the Treaty, it shall submit proposals for amendments to this Directive.
- 2 Protection of rights related to copyright under this Directive shall leave intact and shall in no way affect the protection of copyright.
- 3 A contact committee is hereby established. It shall be composed of representatives of the competent authorities of the Member States. It shall be chaired by a representative of the Commission and shall meet either on the initiative of the chairman or at the request of the delegation of a Member State.
- 4 The tasks of the committee shall be as follows:
 - a to examine the impact of this Directive on the functioning of the internal market, and to highlight any difficulties;

- b to organise consultations on all questions deriving from the application of this Directive;
- c to facilitate the exchange of information on relevant developments in legislation and case-law, as well as relevant economic, social, cultural and technological developments;
- d to act as a forum for the assessment of the digital market in works and other items, including private copying and the use of technological measures.

Article 13

Implementation

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 22 December 2002. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States

2 Member States shall communicate to the Commission the text of the provisions of domestic law which they adopt in the field governed by this Directive.

Article 14

Entry into force

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 15

Addressees

This Directive is addressed to the Member States.

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(1) [OJ L 167, 22.6.2001, p. 10.](#)'