[PL] Amendment to Copyright and Related Rights Act Adopted

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On 8 April 2006, an Act amending the Copyright and Related Rights Act of 4 February 1994 (with later amendments) has been given to the President for signature.

This Act is aimed at achieving full implementation of the Directive 2001/84/EC of the European Parliament and of the Council on the resale right for the benefit of the author of an original work of art (so-called droit de suite) into the Polish legal system

In the course of the legislative procedure the Sejm - the lower chamber of the Polish Parliament - had adopted the Act on 23 March 2006. The Senate - the upper chamber of the Parliament - had proposed in its resolution of 30 March 2006 only one amendment to the draft Act. It referred to the definition of the professional resale' term. On 7 April 2006 this amendment had been rejected by the Sejm.

The amending Act provides that the authors of the original works of sculpture or photographic art or the author's heirs are entitled to receive a remuneration based on the sale price obtained for resale conducted on a professional basis of the work, subsequent to the first transfer of the work by the author.

The amount of this remuneration varies according to the amount of the resale price. It constitutes 5% for the portion of the sale price up to EUR 50,000, 3% for the portion of the sale price from EUR 50,000 to EUR 200,000. Further percentage limits of this remuneration include 1%, 0.5% and 0.25% for the portion of the sale price.

However, the maximum amount of this remuneration may not be higher than 12,500 EUR.

Original works of art are defined as works made by the artist himself or copies considered to be original works of art - meaning copies which have been made in limited numbers by the artist himself or under his authority, which have been numbered, signed or otherwise duly authorized by the artist.

Although there is no such provision within the Directive 2001/84/EC the national legislator chose to keep in the national legal system the " droit de suite" also for

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authors of literary and musical manuscripts and for their heirs. They are entitled to receive 5% of the resale price. The percentage in this case is not set in relation to the resale price. Also no maximum amount of such remuneration is provided.

It should be noted that droit de suite already existed in the Polish legal framework, but its legal construction needed to be more adjusted to the requirements of the acquis communaitaire.

The Act will enter into force after 14 days after the day of its publication.

Ustawa z dnia 23 marca 2006 r. o zmianie ustawy o prawie autorskim i prawach pokrewnych

http://orka.sejm.gov.pl/proc5.nsf/ustawy/297_u.htm

Act of 23 March 2006 amending the Copyright and Related Rights Act of 4 February 1994

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