

European Commission: Ratification of the WCT and WPPT

IRIS 2010-2:1/2

*Christina Angelopoulos
Institute for Information Law (IViR), University of Amsterdam*

On the 14 December 2009, the European Union ratified the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). The two treaties, also known as the WIPO "Internet" Treaties, were adopted in 1996 with the intention of bringing the international protection of copyright and related rights up to speed with modern advances in information technology. Sixteen EU Member States (namely the Republic of Malta, the Republic of Austria, the Kingdom of Denmark, the Republic of Estonia, the Republic of Finland, the French Republic, the Federal Republic of Germany, the Hellenic Republic, Ireland, the Republic of Italy, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Portuguese Republic, the Kingdom of Spain, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland) also concurrently ratified the Treaties. The remaining Member States had already proceeded with ratification at an earlier stage.

The negotiations of the Diplomatic Conference that led to the conclusion of the Treaties marked the first time that the European Union was granted full Contracting Party status alongside Member States in the field of copyright, as opposed to the observer status it had enjoyed up to that point. Immediately after the Diplomatic Conference, work begun on the European level to adapt European copyright law to the new Treaties. The resulting Directive on the harmonisation of certain aspects of copyright and related rights in the information society was adopted in 2001 and has since been transposed into the national law of all EU Member States. In March 2000, the Council of the European Union decided formally that ratification of the Treaties would be done both on the level of the individual Member States and by the European Community.

Nevertheless, harmonisation, at least as concerns the rights of producers of phonograms, has not thus been fully effected. As the notification of the ratification of the WPPT notes, five of the ratifying states (Denmark, Finland, France, Germany and Sweden) have availed themselves of the possibility afforded by the Treaty of declaring that they will not apply either the criterion of publication (the phonogram was first published in another Contracting State) or alternatively of fixation (the first fixation of the sound was made in another Contracting State) or will apply the criterion of fixation alone and the criterion of fixation instead of the criterion of nationality (the producer of the phonogram is a

national of another Contracting State) as concerns the recognition of the right to national treatment in relation to certain rights for producers of phonograms, in accordance with Articles 5 and 17 of the Rome Convention, to which the WPPT refers in Article 3.

The two Treaties will enter into force with respect to the European Union and the aforementioned Member States on 14 March 2010.

“WPPT Notification No. 78, WIPO Performances and Phonograms Treaty, Accessions or Ratifications by the European Union and some of its Member States”, 10 December 2009

http://www.wipo.int/treaties/en/notifications/wppt/treaty_wppt_78.html

“WCT Notification No. 76, WIPO Copyright Treaty, Accessions or Ratifications by the European Union and some of its Member States”, 10 December 2009

http://www.wipo.int/treaties/en/notifications/wct/treaty_wct_76.html

“European Commission Welcomes Ratification of the WIPO Copyright Treaties”, IP/09/1916, Brussels, 14 December 2009

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1916&format=HTML&aged=1&language=EN&guiLanguage=fr>

