

WIPO: Adoption of the Beijing Treaty on Audiovisual Performances

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On 24 June 2012 the Diplomatic Conference of the World Intellectual Property Organization (WIPO) adopted the Beijing Treaty on Audiovisual Performances. The Treaty aims at ensuring worldwide protection of the rights of performers in their audiovisual performances, performers being “actors, singers, musicians, dancers and other persons who act, sing, deliver, declaim, play in, interpret or otherwise perform literary or artistic works or expressions of folklore” (Article 2 (a)).

The treaty is the result of many years of discussion (see IRIS 2001-2/1 and IRIS 2011-8/1). Its objective is to provide audiovisual performers with a clear international protection, as they are currently not fully protected by other international treaties (i.e. the Berne Convention, the International Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations/Rome Convention and the WIPO Performances and Phonograms Treaty).

The treaty protects both the moral and the economic rights of performers. Moral rights include the right to be identified as the performer of a performance and the right to object to any distortion, mutilation or other modification of the performance which would be prejudicial to the performer’s reputation (Article 5). Economic rights in unfixed performances consist of the exclusive right of authorizing the broadcasting and communication to the public of the performance and the exclusive right of authorizing its fixation (Article 6). Regarding fixed performances, the Treaty lays down the performers’ rights of reproduction, distribution, rental, making available to the public, as well as broadcasting and communication to the public (Articles 7-11). Technological development and convergence of information and communication technologies receive special attention in the Treaty, particularly in Articles 15 and 16 which deal with the circumvention of technological protection measures and electronic rights management information. The term of protection granted under the Treaty is 50 years, computed from the end of the year in which the performance was fixed (Article 14).

Article 4 of the treaty contains a national treatment clause applicable to most of the rights secured by the Treaty, stating that a Contracting Party has to treat nationals of other Contracting Parties as it treats its own nationals, thereby

ensuring equal protection. According to Article 19, the protection shall be granted to all existing fixed performances and all (fixed and unfixed) performances that occur after the entry into force of the Treaty. However exceptions to this rule can be made by the Contracting Parties.

Upon its conclusion, 122 countries immediately signed the Final act of the treaty and 48 countries have signed the treaty itself. The Treaty will enter into force three months after ratification by 30 eligible parties (Article 26).

Beijing Treaty on Audiovisual Performances, adopted by the Diplomatic Conference on June 24, 2012

http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=208966

