



Destinatario: Dirección General de Mercado Interior de la Comisión Europea
Fecha: 14 de septiembre de 2004
Asunto: proceso de implementación de la Directiva 92/100/CE

Dear Mr,

I write to you on behalf of the Spanish Federation of Archives, Libraries, Documentation and Museum Associations (FESABID).

We would like to express our concern regarding the proceedings taken by the Commission in front of the Court of Justice regarding the implementation of 92/100/CE on rental and lending rights and related rights in Spain.

The Commission regards that Spain, and other five member States, have incorrectly implemented the directive by exempting lending institutions from paying the right-holders for lending of work by cultural establishment open to the public (IP/04/60 Brussels, 16th January 2004).

The directive was already implemented in Spain in 1994 adding a new paragraph to article 37.2 of Reviewed Text of the Intellectual Property Law (TRLPI).

According to Spanish law (art. 37.2) no remuneration is due to the right owners for lending by some establishments.

We would like to stress that the same Directive provided for such exception. Article 5(3) allows a Member State to exempt "certain categories of establishments", from the payment of the remuneration.

Article 5 Directive 92/100/CE
Derogation from the exclusive public lending right

...

3. Member States may exempt certain categories of establishments from the payment of the remuneration referred to in paragraphs 1 and 2.

The Library and Intellectual Group BPI, which is a part of FESABID, wrote the following document (which has already been sent to our Government) to express our conviction in maintaining the article 37.2 of Reviewed Text of the Intellectual Property Law (TRLPI) of Spain in its present terms.

We consider that actual Spanish copyright law not only complies with the of 92/100/CE on rental and lending rights and related rights, but also responds to the specific situation that the Spanish public library system finds itself in.

Thank you for your attention.

Yours faithfully

Pedro Hípola
President FESABID