

DFH/JPC/mgh/5.3/2/1

10 February 2000

Sra. Ana Palacio Vallelersundi
President of the
Committee on Legal Affairs and Internal
Market
European Parliament
ASP 11e242
rue Wiertz, 60
B-1047 BRUXELLES

Dear Sra. Palacio Vallelersundi,

RE: PROPOSAL FOR A REGULATION CREATING A COMMUNITY DESIGN

Further to a difficult but successful conciliation procedure, Directive 98/71 EC on the legal protection of designs was adopted on 13 October 1998. By harmonising the main elements of substantive design law across the EU, this Directive opens the door to adoption of the Regulation creating a Community Design.

In this context, UNICE has noted the report tabled by Mr Ferri, rapporteur for the Committee on Legal Affairs and the Internal Market which, surprisingly, suggests fundamental changes to the basic concepts and definitions hammered out in the conciliation committee, and embodied in the Directive.

This would threaten the carefully balanced compromise reached on the Directive, and we therefore look to you, as the President of the Committee on Legal Affairs and the Internal Market, to ensure that legal coherence between these two instruments is maintained, and that recent efforts to harmonise national laws are not lost.

As stated in recital nine of the proposed regulation, "*substantive provision of this regulation on designs law should be aligned with similar provisions in directive 98/71 EC on the legal protection of designs*". This has been the case for the Community Trademark Regulation whose provisions mirror those of the trademarks harmonisation directive, and UNICE sees no valid reason for departing from this very sound principle.

We would therefore suggest, in particular, that the Committee on Legal Affairs and the Internal Market does not support amendments **6, 7, 8, 10, 11** and **25** which question basic and very sensitive concepts in the Directive, and would threaten the proper functioning of the Internal Market.

For a similar sake of legal coherence, we would urge you to table amendments in order to restore the wording of the directive on articles 4 and 10 a, the latter having been amended by the Commission in the proposed regulation.

Lastly, some of the amendments tabled by Mr Ferri do not aim at changing the basic concepts or definitions of the directive and in this context, UNICE supports amendments 15 and 16 (provided that the words underlined are removed in the sentence "from the exact copying of the design protected" in amendment 15) since they improve the protection for unregistered designs.

I thank you in advance for your support on this.

Yours sincerely,

Dirk Hudig
Secretary General