



## Protection of Artists in France, Spain and Belgium

The European Directive became law in France following its publication in the Journal Officiel on 28 March 1997 (law no. 97-283 on 27 March 1997). This provides for a protection period of 70 years calculated as from 1 January of the year following the artist's death.

This period of protection is extended in the following manner to include the span of the World Wars:

- 14 years and 272 days for works published before 31 December 1920 (if such works were still in copyright on February 3 1919);
- 8 years and 120 days for works published after 31 December 1920 and before 1 January 1948 (if such works were still in copyright on 31 August 1941).

However, the new French law stipulates that protection can only be revived on works that, although already in the public domain in France at 1 July 1995, were still protected at that date in at least one other member state of the European community.

In Spain artists who died before the law of 11 November 1987 came into effect are protected for a period of 80 years post mortem auctoris (law of 10 January 1879).

Following the "Phil Collins" decision rendered by the Court of Justice of the European Communities on 20 October 1993, which prohibits discriminatory treatment on the grounds of nationality, we consider that it is necessary, when establishing whether works are still protected on 1 January 1995 in at least one other member state of the European Community, to take into account the protection period of 80 years provided by Spanish law for artists deceased before 1987 which should apply in the same manner to French artists.

Therefore, we consider that the period of protection of 70 years, extended when applicable by the span of war years, is applicable under the terms of the Spanish law to French artists who were still protected on 1 January 1995. The new French law provides that the reproduction of newly protected works, that had fallen into the public domain prior to 28 March 1997, can be distributed freely, with no financial obligations, for one year to 28 March 1998. After that date, the rights holders can demand payment of royalties but cannot prohibit distribution.

The protection in Belgium is:

- 70 years post mortem for works published before 4 August 1924 (law of 25 June 1921 extending protection by 10 years to cover the war years);
- 70 years for works published after 4 August 1924.

The content of this fact sheet is of benefit interest only and is not an exhaustive explanation of copyright protection and remedies for infringement. This fact sheet is not intended to apply to specific circumstances. The contents of this fact sheet should not therefore be regarded as constituting legal or other advice and should not be relied upon as such. In relation to any particular problem that you may have, you are advised to seek specific and specialist advice.