



ΠΑΡΑΡΤΗΜΑ ΠΡΩΤΟ
ΤΗΣ ΕΠΙΣΗΜΗΣ ΕΦΗΜΕΡΙΔΑΣ ΤΗΣ ΔΗΜΟΚΡΑΤΙΑΣ
Αρ. 3020 της 1ης ΔΕΚΕΜΒΡΙΟΥ 1995
ΝΟΜΟΘΕΣΙΑ

ΜΕΡΟΣ ΙΙΙ

Ο περί της Ευρωπαϊκής Σύμβασης για την Πνευματική Ιδιοκτησία και Συναφή Δικαιώματα που Διέπουν τη Διασυνοριακή Δορυφορική Τηλεόραση (Κυρωτικός) Νόμος του 1995 εκδίδεται με δημοσίευση στην Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας σύμφωνα με το Άρθρο 52 του Συντάγματος.

Αριθμός 29(ΙΙΙ) του 1995

ΝΟΜΟΣ ΠΟΥ ΚΥΡΩΝΕΙ ΤΗΝ ΕΥΡΩΠΑΪΚΗ ΣΥΜΒΑΣΗ ΓΙΑ ΤΗΝ ΠΝΕΥΜΑΤΙΚΗ ΙΔΙΟΚΤΗΣΙΑ ΚΑΙ ΣΥΝΑΦΗ ΔΙΚΑΙΩΜΑΤΑ ΠΟΥ ΔΙΕΠΟΥΝ ΤΗ ΔΙΑΣΥΝΟΡΙΑΚΗ ΔΟΡΥΦΟΡΙΚΗ ΤΗΛΕΟΡΑΣΗ

Η Βουλή των Αντιπροσώπων ψηφίζει ως ακολούθως:

1. Ο παρών Νόμος θα αναφέρεται ως ο περί της Ευρωπαϊκής Σύμβασης για την Πνευματική Ιδιοκτησία και Συναφή Δικαιώματα που Διέπουν τη Διασυνοριακή Δορυφορική Τηλεόραση (Κυρωτικός) Νόμος του 1995. Συνοπτικός τίτλος.

2. Στον παρόντα Νόμο, εκτός αν από το κείμενο προκύπτει διαφορετική έννοια— Εμπνησία.

«Σύμβαση» σημαίνει την Ευρωπαϊκή Σύμβαση για την Πνευματική Ιδιοκτησία και Συναφή Δικαιώματα που Διέπουν τη Διασυνοριακή Δορυφορική Τηλεόραση, η οποία έγινε στο Στρασβούργο στις 11 Μαΐου 1994.

3. Με τον παρόντα Νόμο κυρώνεται η Σύμβαση, της οποίας το κείμενο στο αγγλικό πρωτότυπο εκτίθεται στο Μέρος Ι του Πίνακα και σε ελληνική μετάφραση στο Μέρος ΙΙ αυτού. Κύρωση της Σύμβασης Πίνακας Μέρος Ι Μέρος ΙΙ.

Νοείται ότι σε περίπτωση αντίφασης μεταξύ του κειμένου του Μέρους Ι και εκείνου του Μέρους ΙΙ του Πίνακα θα υπερισχύει το κείμενο που εκτίθεται στο Μέρος Ι αυτού.

ΠΙΝΑΚΑΣ
(άρθρο 3)

ΜΕΡΟΣ Ι

**European Convention
relating to questions on copyright law
and neighbouring rights in the framework
of transfrontier broadcasting by satellite**

**Convention européenne
concernant des questions de droit d'auteur
et de droits voisins dans le cadre
de la radiodiffusion transfrontière par satellite**

Preamble

The member States of the Council of Europe and the other States Party to the European Cultural Convention, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress;

Recalling their commitment to freedom of expression and information and the free flow of information and ideas as expressed, in particular, in the Declaration of 29 April 1982 of the Committee of Ministers of the Council of Europe on the freedom of expression and information;

Bearing in mind the concerns which inspired the adoption, by the Committee of Ministers, of Recommendation No. R (86) 2 on principles relating to copyright law questions in the field of television by satellite and cable, notably the need to safeguard the rights and interests of authors and other contributors when protected works and other contributions are broadcast by satellite;

Having regard to technical developments, in particular in the field of broadcasting by satellite, which have resulted in the blurring of the technical differences between direct broadcasting satellites and fixed service satellites, making it necessary to consider further legal aspects of broadcasting by satellite from the viewpoint of copyright law and neighbouring rights;

Bearing in mind, at the same time, the need not to hamper these new technical developments as well as the interest of the general public in having access to the media;

Concerned to promote the broadest possible harmonisation of the law of the member States, and the other States Party to the European Cultural Convention, on copyright and neighbouring rights with regard to new technical developments in the field of broadcasting by satellite,

Have agreed as follows:

For the purposes of copyright and neighbouring rights:

Chapter I – The notion and act of broadcasting**Article 1 – The notion of broadcasting**

- 1 The transmission of works and other contributions by direct broadcasting satellite is broadcasting.

- 2 The transmission of works and other contributions by fixed service satellite under conditions which, as far as individual direct reception by the general public is concerned, are comparable to those prevailing in the case of direct broadcasting satellites, shall be treated as broadcasting.
- 3 The transmission of programme-carrying signals in encrypted form is considered to be broadcasting, in cases where the means for decoding the broadcast are made available to the general public by the broadcasting organisation, or with its consent.

Article 2 – The act of broadcasting

An act of broadcasting by satellite shall be considered to comprise both the up-link to the satellite and the down-link to the earth.

Chapter II – The applicable law

Article 3 – The applicable law

- 1 A transmission of works and other contributions covered by Article 1 occurs in the State Party in the territory of which the transmission originates and, therefore, shall be governed exclusively by the law of that State.
- 2 The State Party in the territory of which the transmission originates means the State Party in which the programme-carrying signals transmitted by satellite are introduced, under the control and responsibility of the broadcasting organisation, into an uninterrupted chain of communication via the up-link and down to the earth.
3. When the transmission originates in a State which is not a party to this Convention, the law of which does not provide the level of protection of right holders foreseen in Articles 4 and 5 of this Convention, and when the programme-carrying signals are transmitted by satellite from an up-link station situated in a State Party to this Convention, the transmission shall be deemed to originate in the State Party concerned. Such shall also be deemed to be the case when a broadcasting organisation established in a State Party to this Convention is responsible for the transmission.

Article 4 – Copyright

- 1 Authors of works mentioned in Article 2 of the Berne Convention for the Protection of Literary and Artistic Works shall, as far as transfrontier broadcasting by satellite is concerned, be protected in conformity with the provisions of that Convention (Paris Act, 1971). In particular, rights for transfrontier broadcasting by satellite concerning such works shall be acquired contractually.
- 2 Subject to the provisions of paragraph 3 and where the relevant applicable law according to Article 3 of this Convention has already provided so on the date of opening for signature of this Convention, a collective agreement concluded with a broadcasting organisation for a given category of works may be extended to right-holders of the same category who are not represented, on the following conditions:
 - a non-represented right-holder, at any time, shall have the possibility of excluding, in his respect, the effect of an extended collective agreement and of exercising his rights on an individual basis. He may do so himself or through a collective organisation entitled to manage his rights;

- the transmission by satellite shall simulcast a terrestrial broadcast by the same broadcasting organisation.
- 3 The preceding paragraph shall not apply to cinematographic works, including works created by a process analogous to cinematography.
- 4 Where a State Party's legislation provides for the extension of a collective agreement in accordance with the provisions of paragraph 2, that State Party shall determine the broadcasting organisations entitled to avail themselves of such legislation.

Article 5 – Neighbouring rights

- 1 *As far as transfrontier broadcasting by satellite is concerned, performers, producers of phonograms and broadcasting organisations from States Parties to this Convention shall be protected, as a minimum, in accordance with the provisions of the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (1961).*
- 2 *However, for the purposes of the present Convention, the rights of performers regarding the fixation and the reproduction of their performance shall be exclusive rights to authorise or prohibit. The same applies to the rights of performers concerning the broadcasting and the communication to the public of their performance, except where the performance is itself already a broadcast performance or made from a fixation.*
- 3 *A State Party shall not avail itself of the faculty provided for under Article 19 of the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (1961).*
- 4 *Without prejudice to the provisions of the preceding paragraph, a State Party may provide that the signing of a contract concluded between a performer and a film producer concerning the production of a film has the effect of authorising the acts mentioned in the preceding paragraph provided that such contract provides for an equitable remuneration which cannot be waived by the performer.*
- 5 *For the purposes of this Convention, when phonograms published for commercial purposes, or reproductions thereof, are used for transfrontier broadcasting by satellite, States Parties shall provide a right under their national legislation in order to ensure that a single equitable remuneration is paid by the broadcasting organisation concerned and that this remuneration is shared between the relevant performers and producers of such phonograms.*

Chapter III – Field of application

Article 6 – Retransmission

The simultaneous, complete and unchanged retransmission by terrestrial means of broadcasts by satellite are not, as such, covered by this Convention.