



Malta-EU Steering & Action Committee



COMMERCE DIVISION

## Visual arts: the rights of resale

Briefing Session for Stakeholders  
7<sup>th</sup> April 2009

30<sup>th</sup> March 2009

Dear Sir/Madam,

The aim of Council Directive 2001/84/EC, also known as the Resale Right Directive is to give to the author of a work of art in which copyright subsists, a right, known as the **resale right**, to a royalty on any sale of the work which is a resale subsequent to the first transfer of ownership by the author. The resale right connected with a work shall continue until the copyright in the work expires.<sup>1</sup>

The Resale Right Directive was transposed into national law by virtue of LN 174 of 2006. The relevant national legislation is the Copyright Act (Cap 415).

### General background

*This resale right shall apply to all acts of resale conducted by art market professionals. The resale right shall not apply to those acts of resale affected directly between persons acting in their private capacity without the participation of an art market professional. In fact, the royalty is payable by the art market professional who affects a sale of the work which is a resale subject to the first transfer of ownership by the author.*

*The royalty on the resale right shall be payable to the author of the work and, after his death, to his successor. As the law stands at the moment, a successor in title can only benefit from the resale right after 2010 in respect of a resale which takes place after that date. Nevertheless, the Directive allows Member States a further 2 years derogation for resale rights to successors in order to enable the economic operators in the Member States to adapt gradually to the resale right system while maintaining their economic viability.*

In this context, MEUSAC and the Industrial Property Registration Directorate within the Commerce Division of the Ministry of Finance, the Economy and Investment, shall be organising a briefing session for stakeholders on the overall concept of this directive, focusing primarily on the possibility of extending the derogation of application of the resale right to heirs. Importantly, it will be an opportunity to air your views on this matter so that these can be taken into consideration.

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<sup>1</sup> The resale right only applies in respect of works the sale price of which exceeds €1,500.



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The session is being held as follows:

**7<sup>th</sup> April 2009**

**Time: 1500 – 1700 hrs**

**Registration: 1445 hrs**

**Venue: Commerce Division, Lascaris, Valletta**

The discussion should be of particular interest to all operators dealing with visual arts including:

- Artists
- Art galleries
- Dealers in works of art
- Collecting societies

The main speaker will be Ms Michelle Bonello, Director of the Industrial Property Registration Directorate within the Commerce Division of the Ministry for Finance, the Economy and Investment. She will give a brief overview of the Directive as well as the national law implementing it (LN 174 of 2006), and will tackle the possibility of extending the resale right to successors of artists. There will also be time for discussion and questions from participants. To this effect, the relevant documentation may be accessed through the following link:

<http://www.doi.gov.mt/EN/legalnotices/2006/08/LN174.pdf>

Participation is free of charge. Registration is highly recommended in view of seating restrictions and should reach MEUSAC offices by not later than noon of Monday 6<sup>th</sup> April 2009 on email address [consult.meusac@gov.mt](mailto:consult.meusac@gov.mt). For further details and assistance on this event, kindly contact Brian Pace on telephone 22003300.

Best regards,

Dr. Diane Farrugia  
Admin Secretary (Consultation)  
MEUSAC

Michelle Bonello  
Director (IPR)  
Commerce Division, MFEI