

PRESIDENTIAL DECREE No. 161/31.05.2002

“Adaptation of Presidential Decree 259/1997 to the provisions of Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs”

**THE PRESIDENT
OF THE HELLENIC REPUBLIC**

Having regard to:

1. the provisions of Article 4 of Law 1338/83 on the implementation of Community Law (Government Gazette Issue A 34), as has been replaced by Article 6 (4) of Law 1440/1984 (Government Gazette Issue A 70) and amended by Article 22 of law 2789/2000 (Government Gazette Issue A 21), as well as the provisions of Article 65 of Law 1892/1990 (Government Gazette Issue A 101);
2. the provisions of Article 2 of Law 2077/1992 on the ratification of the Treaty for the European Union and the relevant protocols and declarations included in the Final Act (Government Gazette Issue A136);
3. Article 4 of Law 2417/1996 on the ratification of the Hague Agreement concerning the international registration of industrial designs of 6 November 1925, as has been reviewed in the Hague on 28 November 1960 and the Complementary Act of Stockholm of 14 July 1967, as was amended on 28 September 1979 (Government Gazette Issue A 139);
4. Presidential Decree 81/2002 on the merger of the Ministry of National Economy and the Ministry of Finance into the Ministry of Economy and Finance (Government Gazette Issue A 57);
5. Article 29A of Law 1558/85 on the government and government agencies (Government Gazette Issue A 137), which was added by virtue of Article 27 of Law 2081/92 on regulating the institution of Chambers, and the amendment of

the provisions of Law 1712/1987 to modernize professional associations, merchants, small industrialists, and other professions, and other provisions (Government Gazette Issue A 154) and replaced by Article 1 (2) (a) of Law 2469/1997 on limiting and improving the efficiency of government expenses and other provisions (Government Gazette Issue A 38);

6. the fact that provisions of this Presidential Decree do not generate expenses charged to the State Budget;
 7. Opinion No. 157 of 22 March 2002 of the Council of the State by motion of the Minister of Economy and Finance, the Minister of Justice and the Minister of Development;
- We hereby decide:

**Article 1
Object**

It is the object of this Presidential Decree to adapt Presidential Decree 259/1997 on the ratification of the Hague Agreement concerning the international registration of industrial designs, that was ratified by Law 2417/1996 and provisions on the national protection title (Government Gazette Issue A 185) to the provisions of Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs (OJ L 289/28.10.98).

Article 2

(Article 1 (c) of Directive 98/71/EC)

Indent c will be added to Article 2 (1) of Presidential Decree

259/1997 with the following wording:

"c. "complex product" means a product which is composed of multiple components which can be replaced permitting disassembly and reassembly of the product."

Article 3

(Articles 5 (2) and 3 (4) of Directive 98/71/EC)

1. In Article 12 (5) of Presidential Decree 259/1997 the phrase "with regard to technical needs" will be replaced with: "in developing the design".
2. Article 12 (7) of Presidential Decree 259/1997 will be replaced with the following text: "Normal use within the meaning of paragraph 6 above will mean use by the end user, excluding maintenance, servicing or other similar works."

Article 4

(Article 6 (2) of Directive 98/71/EC)

Article 14 (1) of Presidential Decree 259/1997 will be replaced with the following text:

"The new and individual nature of a design in accordance with Article 12 (3) and (4) hereof will not be cancelled where a design which has been made available to the public during the 12-month period preceding the date of filing of the application or, if priority is claimed, the date of priority, if one of the following reasons applies:"

Article 5

(Article 9 of Directive 98/71/EC)

Article 27 of Presidential Decree 259/1997 is replaced by the following text:

1. "Beneficiary protection will include any design which does not produce on the informed user a different overall impression"

2. "In assessing the scope of protection, the degree of freedom of the designer in developing his design will be taken into consideration."

Article 6

(Article 11 (1) (a) and (d), (4) and (7) of Directive 98/71/EC)

1. Indents e and f will be added to Article 16 (1) of Presidential Decree 259/1997 with the following wording:

"e. if the design is not a design within the meaning of Article 2 (1) (a);"

"f. if the design is in conflict with a prior design which has been made available to the public after the date of filing of the application or, if priority is claimed, the date of priority, and which is protected from a date prior to the said date by a registered Community design or an application for a registered Community design or by a design right of the Member State concerned, or by an application for such a right".

2. Article 16 (2) of Presidential Decree 259/1997 will be replaced with the following text: "The ground of refusal provided for in paragraph 1(f) may be invoked solely by the applicant for or the holder of the conflicting right". As for the rest the provisions of Article 15 (2) of Law 1733/1987 will apply accordingly".

3. Paragraph 5 will be added to Article 16 of Presidential Decree 259/1997 with the following wording:

"When a design has been declared invalid pursuant to Article 16 (1), the design may be registered or the design right maintained in an amended form, if in that form it complies with the requirements for protection and the identity of the design is retained. Registration or maintenance in an amended

form may include registration accompanied by a partial disclaimer by the holder of the design right or entry in the design Register of a court decision declaring the partial invalidity of the design right."

Article 7

(Article 15 of Directive 98/71/EC)

A new Article 29A will be added after Article 29 of Presidential Decree 259/1997 with the following wording:

"Exhaustion of rights

The rights conferred by a design right upon registration will not extend to acts relating to a product in which a design included within the scope of protection of the design right is incorporated or to which it is applied, when the product has been put on the market in the Community by the holder of the design right or with his consent."

Article 8

The provisions hereof will enter into force as of 28 October 2001, when in accordance with Article 19 (1) of Directive 98/71/EC Member States must bring into force the laws, regulations or administrative provisions necessary to comply with this Directive.

We hereby assign to the Minister of Development to see to the publication and implementation of this Presidential Decree.