



Should the EU unify copyright laws?

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The EU acquis

The EU's regulatory framework for copyright and neighbouring rights (*acquis*) consists of:

- Directive on the harmonisation of certain aspects of copyright and related rights in the information society ('[InfoSoc Directive](#)'), 22 May 2001
- Directive on rental right and lending right and on certain rights related to copyright in the field of intellectual property ('[Rental and Lending Directive](#)'), 12 December 2006
- Directive on the resale right for the benefit of the author of an original work of art ('[Resale Right Directive](#)'), 27 September 2001
- Directive on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission ('[Satellite and Cable Directive](#)'), 27 September 1993
- Directive on the legal protection of computer programs ('[Software Directive](#)'), 23 April 2009
- Directive on the enforcement of intellectual property right ('[IPRED](#)'), 29 April 2004
- Directive on the legal protection of databases ('[Database Directive](#)'), 11 March 1996
- Directive on the term of protection of copyright and certain related rights amending the [previous 2006 Directive](#) ('[Term Directive](#)'), 27 September 2011
- Directive on certain permitted uses of orphan works ('[Orphan Works Directive](#)'), 25 October 2012
- Directive on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market ('[CRM Directive](#)'), 26 February 2014
- Directive on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled ([Directive implementing the Marrakech Treaty in the EU](#)), 13 September 2017
- Regulation on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled ([Regulation implementing the Marrakech Treaty in the EU](#)), 13 September 2017
- Regulation on cross-border portability of online content services in the internal market ('[Portability Regulation](#)'), 14 June 2017
- Directive on copyright and related rights in the Digital Single Market ('[DSM Directive](#)'), 17 April 2019
- Directive on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes ('[Satellite and Cable II](#)'), 17 April 2019

Three additional instruments ([Directive 87/54/EC](#), [Council Decision 94/824/EC](#) and [Council Decision 96/644/EC](#)) harmonise the legal protection of topographies of semiconductor products. Moreover, the [E-commerce Directive](#) and the [Conditional Access Directive](#) also contain provisions relevant to the exercise and the enforcement of copyright.

Should things change?

Judgment of the Court (Fourth Chamber) of 16 July 2009
(Reference for a preliminary ruling from the Højesteret —
Denmark) — Infopaq International A/S v Danske
Dagblades Forening

(Case C-5/08) ⁽¹⁾



*European
Copyright Code*

The Wittem Project

OPINION OF ADVOCATE GENERAL
MENGOZZI
delivered on 7 March 2013 (1)

Case C-521/11

**Amazon.com International Sales Inc.
Amazon EU Sàrl
Amazon.de GmbH
Amazon.com GmbH, in Liquidation
Amazon Logistik GmbH**

v

Austro-Mechana Gesellschaft zur Wahrnehmung mechanisch-musikalischer Urheberrechte Gesellschaft mbH

6. In this regard I consider that it is important also to note that it will be clear from the analysis of some questions referred in the present case that a large number of problems relating to the application of Directive 2001/29 arise from the insufficient level of harmonisation of copyright law within the Union. In my view, this demonstrates that although it is important to respect the abovementioned legal traditions and views which exist in that regard in the Member States, for the purpose of developing a modern legal framework for copyright in Europe which, having regard to the various interests at stake, makes it possible to safeguard the existence of a genuine single market in that sector, by promoting creativity, innovation and the emergence of new business models, it is necessary to move towards pursuing a much greater level of harmonisation of national law than that attained by Directive 2001/29.



EUROPEAN COMMISSION

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE
COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF
THE REGIONS**

Towards a modern, more European copyright framework

The full harmonisation of copyright in the EU, in the form of a single copyright code and a single copyright title, would require substantial changes in the way our rules work today. Areas that have so far been left to the discretion of national legislators would have to be harmonised. Uniform application of the rules would call for a single copyright jurisdiction with its own tribunal, so that inconsistent case law does not lead to more fragmentation.

These complexities cannot be a reason to relinquish this vision as a long-term target. Notwithstanding the particularities of copyright and its link with national cultures, difficulties and long lead-times have also accompanied the creation of single titles and single rulebooks in other areas of intellectual property, notably trademarks and patents, where they are now a reality.

The EU should pursue this vision for the very same reason it has given itself common copyright legislation: to build the EU's single market, a thriving European economy and a space where the diverse cultural, intellectual and scientific production of Europe travel across the EU as freely as possible.

INFORMACIÓN

Activos Transformación Digital Empleo Vivienda Empresas en Alicante Empresa familiar Directorio provinc

La EUIPO asumirá las nuevas indicaciones geográficas industriales y aspira a gestionar un futuro «copyright» europeo

El nuevo director ejecutivo de la euroagencia con sede en Alicante, João Negrão, desgrana los retos de su mandato en el Foro + Europa



El nuevo director ejecutivo de la EUIPO, João Negrão, durante su intervención en el Foro + Europa. / ÁLEX



ENRICO LETTA

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April 2024

A European Code of Business Law would be a transformative step towards a more unified Single Market, providing businesses with a 28th regime to operate within the Single Market. It would directly address the current patchwork of national regulations, acting as a key to unlock the full potential of free movement within the EU. Recognizing its potential benefits, the European Commission has actively explored the codification of EU business law, finding widespread support for the concept among Member States. A code of business law can enhance competitiveness and attractiveness, as demonstrated by numerous foreign examples. For instance, the Uniform Commercial Code (UCC) in the United States has facilitated the creation of a market of critical size. Similarly, the Organization for the Harmonization of Business Law in Africa (OHADA) is widely recognised as a lever for growth in trade and investment.

An initial step involves the systematic codification of the existing legal framework. However, merely codifying existing laws will not suffice to realise a truly integrated European market. It is essential to complement the codification process with innovative elements and new European tools designed to meet the needs of European enterprises. Such innovations must include the establishment of a Simplified European Company to provide a more adaptable legal structure for businesses. Its scope may be expanded to include the following areas of law, where applicable: general commercial law, market law, e-commerce law, company law, securities law, enforcement law, insolvency law, banking law, financial market law, **intellectual property law**, employment law, and tax law.



Not to mention activity (and activism) of the CJEU
in the post-Infopaq age

What's at issue then?

- Why?
 - Rationalization
 - Dematerialization / territoriality
 - Competitiveness
 - “The CJEU has taken over” et sim
- How?
 - An EU system that exists in parallel with national ones?
- When?

But ... who's to blame?

- Would have things looked different if the instrument chosen to harmonize so far had been different?
 - Directives and regulations
 - Understanding of transposition freedom
- Is the CJEU really to blame?
 - National courts
 - National legislatures
- Is the rush to legislate (always) a good idea?



Artificial intelligence + Add to myFT

EU's new AI Act risks hampering innovation, warns Emmanuel Macron

French president argues landmark rules may leave European tech companies lagging rivals in US, UK and China



French President Emmanuel Macron addresses an audience on technology at the Airbus plant in Toulouse © Caroline Blumber/EPA/Shutterstock

THE WALL STREET JOURNAL.

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Europe Regulates Its Way to Last Place

From mergers to AI, the EU's aggressive rule-making hampers its ability to compete with China and the U.S.



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Thanks for your attention!

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