

ABSTRACTS

In the course of the 2007-2008 FTA negotiations between Korea and the EU, discussions on the possibility of introducing Droit de suite into the Korean legal system brought about speculations on its pertinence in the Korean art market. This research aims to give a direction regarding the feasibility of Droit de suite in Korea, by studying its legal nature and how it is implemented in Europe, especially after the The European Directive 2001/84 on the resale right for the benefit of the author of an original work of art became effective. The Directive has been the turning point in the European system of Droit de suite, in view of harmonizing different legislations of the Member States (until 1 January 2006) to eliminate distorting effects on the art market. Despite several oppositions, the Directive has succeeded in rendering the Droit de suite applicable under similar conditions within the EU. The main reasons set forth by opposers of the system were the fear of transfer of the art market toward a market which does not apply the Droit de suite and secondly, the doubt as to whether the actual beneficiaries are not the poor artists the system originally aimed to help. However, current reports show that the introduction of Droit de suite had no substantial negative effect on the market(UK) and had actually aided various artists in various sums. During the process of harmonization, several important derogations and compromises were made in order to facilitate the introduction of Droit de suite and to diminish any possible negative impact. In this study, these derogations which allowed a smooth transition are closely examined as well as the special legal nature of Droit de suite. As Droit de suite is a right specifically conferred to graphic or plastic artists, this research focuses on the aspect of social welfare and suggests that Droit de suite should be considered also as a social right of the artists, not solely as the author's right in the boundary of copyright.

Keyword : droit de suite, resale right, the European Directive, works of graphic or plastic art, copyright, Korea-EU FTA, the artist's social right