[AT] Draft Ministerial Amendment to Copyright Act

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On 25 July 2002, the Austrian Bundesministerium für Justiz (Federal Ministry of Justice) submitted a draft ministerial amendment to the Copyright Act for further evaluation. The main purpose of the amendment is to bring the Act into line with Directive 2001/29/EC of the European Parliament and of the Council on the harmonisation of certain aspects of copyright and related rights in the information society (Copyright Directive). However, the draft also clarifies and improves certain aspects of how the Act should be implemented and amends some elements of copyright contract law.

The ministerial draft finally brings Austrian copyright contract law onto the same level occupied by German copyright law between 1966 and the latest reforms. For this reason, the Ministry of Justice proposes firstly to lay down in law the principle that the granting of rights in relation to unknown forms of exploitation are invalid. Secondly, it hopes to give legal force to the so-called "theory of the purpose of assignment" not only as a rule to be applied in cases of doubt, but as an incumbency upon contracting parties to specify the types of use to which the exploitation right extends (the first point mentioned above is essentially derived from this). Thirdly, it intends to insert a paragraph dealing with best-sellers.

The governmental crisis and the abrupt end to the legislative period meant that the ministerial draft was hurriedly shortened to include only the parts needed to transpose the Copyright Directive. It was placed in skeleton form on the agenda for the Cabinet meeting held on 17 September 2002. However, it was soon removed and was therefore not discussed either by the Cabinet or by Parliament. A government proposal or an independent motion by MPs is therefore unlikely to materialise before the National Assembly elections on 24 November 2002. It therefore appears doubtful whether the Act will be brought into line with the Copyright Directive before the deadline of 22 December 2002.

Entwurf für ein Bundesgesetz, mit dem das Urheberrechtsgesetz geändert wird (Urheberrechtsgesetz-Novelle 2002), 25. Juli 2002

http://www.justiz.gv.at/gesetzes/download/urheberrecht2002.pdf

Draft Federal Act amending the Copyright Act, 25 July 2002

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