[PL] Changes to Copyright Law in the Light of Digitisation

IRIS 2002-10:1/29

Małgorzata Pęk
National Broadcasting Council of Poland

On 28 October 2002 the Polish Parliament adopted an Amendment to the Act on Copyright and Neighbouring Rights of 4 February 1994 (with later amendments). Subsequently, on 15 November 2002 this new bill was signed by the President of the Republic of Poland. It aims at a further harmonisation of Polish legislation with EC law (notably the Directives 93/83/EEC, 93/98/EEC, 91/250/EEC and 92/100/EEC) and new treaties that Poland plans to ratify in the nearer future (namely the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty, both dated 20 December 1996).

The popularisation of digital technology leads to a successive change of ways and scope of exploiting copyrighted works and subject matters of neighbouring rights. These creative works can easily be fixed and made available to the public in electronic form. The wide dissemination of such works on the Internet should be without prejudice to the legitimate interests of their creators. That is why the bill introduces new regulations concerning the exploitation of works, artistic performances, phonograms, videograms and broadcast programmes.

A new kind of exploitation will be introduced inform of the right of making available to the public of a work, fixation of artistic performance, phonograms, videograms, or fixation of broadcast programmes in such a way that members of the public may have access to them from a place and at a time individually chosen by them.

In addition, new provisions on rights to broadcast are introduced. Till now the Act on Copyright and Neighbouring Rights provides that notwithstanding the rights of authors and artistic performers, radio and television organisations have an exclusive fixation right as regards their programs, which they may reproduce by a specific technique and transmission, or have them reproduced by another radio or television organisation. The draft law enlarges the scope of the exclusive rights of broadcasters also to include retransmission, the putting into circula tion of fixations of their programmes, the exhibition at the places, which can be accessed against a fee, and finally the making available to the public in such a way that members of the public may have access to them from a place and at a time individually chosen by them. The draft also stresses that those exclusive rights of broadcasters shall be exercised without detriment to the rights of producers of

© European Audiovisual Observatory (Council of Europe) 2026

phonograms and videograms.

Moreover, the draft provides new legal definitions of transmission, retransmission, putting into circulation, leasing, renting, and exhibition.

It also specifies the scope of copyright protection stating that it extends only to expressions and not to inventions, ideas, procedures, methods of operation or mathematical concepts as such.

Furthermore, the draft introduces regulations on the moral rights of artistic performers. It also changes the way of determining the duration of protection of an audiovisual work. The economic rights to audiovisual works are protected for a period of 70 years starting from the death of the rightsholder, but it excludes authors of films from this group of creators.

A provision on compulsory licence for cable operators that had raised some controversies was deleted.

It should be noted that the draft law envisages that except for exhaustion of rights within the territory of states with which the Republic of Poland has an agreement on the establishment of a free trade zone, a typically regional exhaustion rule will apply; this means that the putting into circulation of an original or a copy of a work on the territory of the European Economic Area will exhaust the rights to authorize further circulation of such works in a tangible form within the Republic of Poland's territory. This does, however, not apply to rental and lending rights.

Most of provisions of this bill are due to enter into force on 1 January 2003. Some of them, however, will enter into force only upon the day of accession of Poland to the EU. This applies, for example, to the provisions referring to regional exhaustion and the provisions enlarging the scope of protection provided under the Act on Copyright and Neighbouring Rights to comprise works whose creator is a citizen of a Member State of the European Union.

Further works aimed at drafting other amendments to the Act on Copyright and Neighbouring Rights are planned to begin soon. They will concentrate on the most problematic issues, notably the creation of a new legal framework for organisations for collective management of rights and a Copyright Commission.

Ustawa z dnia 28 pa´zdziernika 2002 r. o zmianie ustawy o prawie autorskim I prawach pokrewnych

http://ks.sejm.gov.pl:8010/proc4/ustawy/735_u.htm

Act of 28 October 2002 amending the Act on Copyright and Neighbouring Rights of 4 February 1994

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026