[DK] Danish Implementation of Directive 2001/29/EC

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By Act no. 1051 of 17 December 2002, by which the Danish Copyright Act was amended, Denmark implemented Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society ("the Directive" - see IRIS 2001-5: 3). The main purpose of the Directive is to harmonise the protection of copyrights and related rights within the European Community in light of the information society. This article outlines the essential changes to the Danish legal position as a result of the Directive.

Fundamentally, Denmark considered the existing Danish Copyright Act to be already in concordance with the Directive. Thus, very few amendments were needed to ensure implementation. For example, Article 3 of the Directive, according to which copyright-protected works that are made available to the public "on demand" (e.g. on the Internet or a mobile platform) are comprised in the author's exclusive and unconditioned copyright, was already reflected in Danish law. Further, Article 5. para 1 of the Directive, which exempts certain temporary acts of reproduction from the rightsholder's exclusive reproduction right, was likewise considered to be in accordance with existing Danish law. Article 5, paras 2 to 4 of the Directive stipulates a number of optional exceptions to the rightsholder's exclusive reproduction right. In general, Denmark already has exceptions corresponding with the optional exceptions. Thus, Article 5, paras 2 to 4 has only led to minor adjustments to the Danish Copyright Act.

Consequently, the Directive has primarily resulted in a number of more explicit formulations of already existing provisions and only a few material amendments to the Act. Two material amendments are outlined in the following:

First, in consequence of Article 6 of the Directive, Denmark has introduced a prohibition against the circumvention of any effective technological measures to avoid the making of a copy.

Second, it follows from Article 4 of the Directive, that if the rightsholder has authorised the distribution of a copy of his/her work in one of the EC member states, the rightsholder's distribution right to that specific copy is exhausted within the Community. Article 4 expresses the principle of "regional exhaustion". However, Article 4 has as a consequence that the Member States are no longer permitted to maintain national provisions regarding so-called "international exhaustion", i.e. the right to re-distribute a copy of a work no matter where in the

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world the initial sale of the specific copy took place. Since Denmark has up until now to some extent upheld the principle of international exhaustion, the Danish Copyright Act has been amended in order to reflect that only regional exhaustion is in accordance with Article 4 of the Directive. The Act came into force on 22 December 2002.

Bekendtgørelse af lov om ophavsret, Lovbekendtgørelse nr. 618 af 27. juni 2001

Act on Copyright, Consolidated Act No. 618 of 27 June 2001

http://www.kum.dk/sw4550.asp

Lov nr. 1051 af 17. december 2002 om ændring af ophavsretsloven

Act No. 1051 of 17 December 2002, regarding amendments to the Copyright Act

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