[DE] New Copyright Law Enacted

IRIS 2003-9:1/25

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Following the decision by the lower house of the German parliament (Bundestag) on 3 July 2003 to accept the compromise proposal worked out by its mediation committee on the Gesetz zur Regulierung des Urheberrechts in der Informationsgesellschaft (Law Regulating Copyright in the Information Society), the upper house (Bundesrat) added its consent to the proposal on 11 July 2003. The law was officially published on 12 September, and substantially entered into force on 13 September.

The two houses have thus agreed that, with respect to the controversial privileging of private copies in accordance with Art. 53 [(1.)] of the Gesetz über das Urheberrecht und verwandte Schutzrechte (Law on Copyright and Related Rights, UrhG), the making of copies for private use shall in future only be permissible "provided that for the making of copies no obviously illegally-produced original is used". This formulation reflects the reservations expressed by the Bundestag in the face of the demand by the Bundesrat that only private copies from originals that are legal be permitted. The Bundestag had objected that it is often impossible for the user to ascertain the legality or otherwise of the source medium. The solution now reached, which prohibits private copies from "obviously" illegal sources, is intended to prevent the duplication of pirate copies. This means that the privileged status extended by copyright law to private copies has undergone a further restriction, in addition to that imposed by the provisions which pursuant to the terms of reference of Directive 2001/29/EC on the protection of copyright and related rights in the information society, which the new law serves to implement (see IRIS 2001-5: 3, IRIS 2001-3: 3, IRIS 2000-7: 3, IRIS 2000-2: 15, IRIS 1999-6: 4 and IRIS 1998-1: 4) - oppose the circumvention of anti-copying devices (Art. 95a [(1.)] UrhG) and sanction the latter (Art. 108b [(1.) 1.] UrhG).

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