

[FR] Bill for Transposing the Directive of 22 May 2001 on Copyright and Related Rights in the Information Society

IRIS 2004-1:1/25

*Clélia Zérah
Légipresse*

On 12 November the Minister for Culture, Jean-Jacques Aillagon, presented the Bill for transposing the Directive of 22 May 2001 on copyright and related rights in the information society (see IRIS 20015: 3).

The text introduces two new exceptions to copyright under French law. Firstly, in accordance with Article 5(1) of the Directive, the Bill institutes an exception to the reproduction right in respect of certain ephemeral technical acts of reproduction, particularly those related to transmissions using the Internet, such as certain categories of mask copies on the servers of access providers and certain technical copies. Secondly, the text also institutes an exception for the benefit of people with a disability in order to allow greater access for people with serious psychiatric, auditory, visual or motor deficiency; suitable formats may be produced and made available to them. On the other hand, there is no provision for exceptions for teaching purposes as called for by the education authorities.

In accordance with the Directive, the Bill also institutes penal sanctions to be applied in cases of circumventing the technical means of protecting a work, or circumventing information on the scheme of rights applicable to a work or a service protected by a related right.

In terms of legal protection, the Bill creates a "college of mediators" responsible for settling disputes between rightsholders and consumers, in order to ensure respect for the private copy exception. Apart from its conciliation role, provision is made that, in the event of conciliation failing, the college could issue injunctions prescribing the appropriate measures to give effect to the benefit of the exceptions. These decisions would be made public and could be appealed before the Court of Appeal in Paris.

The text also lays down the conditions for the exercise of copyright by civil servants, extending to them the rule that benefits employees who hold copyright in respect of the works they create as part of their professional activity, except in the case of collective works.

However, if the work is used in carrying out a non-commercial public service mission, the administration has the benefit of the statutory transfer of pecuniary

rights.

Lastly, the Bill lays down the statutory registration requirement for copyright purposes of Internet pages with the national library (Bibliothèque nationale de France) and the national audiovisual institute (Institut national de l'audiovisuel), and authorises the bodies responsible for such registration to copy on-line content using a selective method allowing the gradual constitution of a collective memory representative of the evolution of public on-line communication.

The text will be debated in Parliament in the New Year.

Bill on copyright and related rights in the information society of 12 November 2003

