[AT] Law on Copyright Collecting Societies to be Reformed

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At the beginning of 2005, the Austrian Ministry of Justice tabled a draft new Federal Act on copyright collecting societies. The law governing copyright collecting societies, which is mostly based on a 1936 Act, is thought to be confusing. Doubts have been raised over whether the supervisory bodies conform to the Constitution, while the monitoring of copyright collecting societies has been criticised as ineffective on several occasions. The new Act is meant to eliminate these problems.

Under the draft, the rights and duties of copyright collecting societies, in relation to both copyright owners and users of material whose copyright is managed collectively, will be regulated more precisely than before.

General agreements on certain broadcasting rights may currently be concluded by ORF (the Austrian public service broadcaster) on behalf of broadcasters, the Wirtschaftskammer (Chamber of Commerce) on behalf of private commercial broadcasters and the Verband freier Radios (free radio association) on behalf of non-commercial private radio broadcasters. This arrangement is to be extended to cover all broadcasting rights. User organisations will in future contribute to monitoring costs, which were previously covered by the copyright collecting societies alone.

Under the draft, the Aufsichtsbehörde für Verwertungsgesellschaften (monitoring body for copyright collecting societies) will be created as the first-instance authority. It will be subject to the directives of the Federal Chancellor. A new, completely independent Urheberrechtssenat (copyright senate) will act as the second-instance body. The senate will also be able to issue ordinances or decrees instead of general agreements. In the first instance, it will be responsible for deciding disputes relating to general agreements and ordinances as well as determining certain fees. Its power to decide disputes means it will replace the current Schiedskommission (arbitration commission) and Schiedsstelle (arbitration body).

Until now, the only means available to punish copyright collecting societies has been the withdrawal of their licence after a previous warning. This is to be supplemented with the possibility of issuing formal instructions. If such an instruction is ignored, the copyright collecting society may be invited to release

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the organ responsible for the violation from its duties.

Entwurf für ein Bundesgesetz über Verwertungsgesellschaften (Verwertungsgesellschaftengesetz 2005 - VerwGesG 2005)

http://www.bmj.gv.at/_cms_upload/_docs/entwurf_verwgesg2005.pdf

Draft Federal Act on copyright collecting societies

http://www.bmj.gv.at/_cms_upload/_docs/entwurf_verwgesg2005.pdf

Erläuterungen zum Entwurf

http://www.bmj.gv.at/_cms_upload/_docs/erl_verwgesg2005.pdf

Explanatory document

http://www.bmj.gv.at/_cms_upload/_docs/erl_verwgesg2005.pdf

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