[BE] Implementation of Copyright Directive

IRIS 2005-7:1/12

Dirk Voorhoof
Human Rights Centre, Ghent University and Legal Human Academy

After long parliamentary preparations and debate, the Belgian Copyright Act of 30 June 1994 has been modified in order to implement the EC Directive 2001/29 of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society. As the Directive 2001/29/EC should have been transposed into national law by the EC Member States before 22 December 2002, the European Commission had started the next step in the infringement procedure against Belgium for failing to comply with the 2004 rulings of the European Court of Justice (Case C-143/04, Commission v Belgium, 18 November 2004) requiring Belgium (as well as Finland and Sweden) to implement the Directive 2001/29/EC (see IRIS 2003-8: 6, IRIS 2004-2: 5 and IRIS 2005-5: 5).

The law modifying the Copyright Act 1994 was published in the Official Gazette (Moniteur Belge/Belgisch Staatsblad) of 27 May 2005 and entered into force the same day. Some modified articles however will only enter into force on the day indicated by Royal Decree.

The law of 22 May 2005 in its title explicitly refers to the transposition of the Directive 2001/29/EC and indeed reflects the basic provisions of this Directive, introducing inter alia an exclusive right to authorise or prohibit direct or indirect, temporary or permanent reproduction, an exclusive distribution right and an exclusive right of communication to the public for interactive on-demand distribution. The new provisions contain modified and extended exceptions on copyright and neighbouring rights, such as exceptions for the use made by public libraries, museums and archives, private copying, copying for educational purposes and scientific research, reproductions of broadcasts by social institutions with a non-commercial purpose, such as hospitals and prisons, and reporting on actual events. The exception to the right of communication to the public for acts of communication within the family circle has been broadened to include those made free of charge within the realm of school activities. Other articles of the new law aim to implement the provisions with regard to the protection of technical measures for works and other materials, as well as the obligations concerning (the protection of electronic) rights-management information.

Wet van 22 mei 2005 houdende omzetting in het Belgisch recht van de Europese richtlijn 2001/29/EC van 22 mei 2001 betreffende de

© European Audiovisual Observatory (Council of Europe) 2026

harmonisatie van bepaalde aspecten van het auteursrecht en de naburige rechten in de informatiemaatschappij, Belgisch Staatsblad 27 mei 2005

http://www.ejustice.just.fgov.be/cgi/article_body.pl?numac=2005011236&caller=list&article_lang=F&row_id=1&numero=1&pub_date=2005-05-27&set3=set+character_variant+%27french.ftl%27&language=fr&fr=f&choix1=ET&choix2=ET&fromtab=+moftxt&trier=promulgation&htit=droit+d%27auteur&sql=htit+contains++%27droit%27%26+%27d%27%26+%27auteur%27&rech=57&tri=dd+AS+RANK+&set1=set+stopfile+%27MOF.stp%27

Belgian Law of 22 May 2005 implementing Directive 2001/29/EC of 22 May 2001, Moniteur Belge of 27 May 2005

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026