[PL] Proposed Changes in the Intellectual Property Rights Regime

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The Ministry of Culture has prepared an amendment to the Copyright and Related Rights Act of 4 February 1994, the Code of Civil Procedure of 17 November 1964, as well as the Industrial Property Law of 30 June 2000, the Act of 27 July 2001 on Legal Protection of Databases and the Act of 26 June 2003 on Legal Protection of Plant Species (each with subsequent amendments), aiming to implement the Community law requirements in the area of Intellectual Property Rights into the Polish legal system.

Basically, the bill is targeted at the implementation of Directive 2004/48/EC of the European Parliament and of the Council on the enforcement of intellectual property rights. The bill aims also at achieving the fine tuning of the transposition of certain provisions of other directives: Council Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission, Council Directive 93/98/EEC harmonizing the term of protection of copyright and certain related rights and Directive 96/9/EC of the European Parliament and of the Council on the legal protection of databases.

In regard to the implementation of provisions of the Enforcement Directive which is at the core of the proposed bill the envisaged amendment aims at introducing further measures, procedures and remedies necessary to ensure the enforcement of intellectual property rights into the Polish legal system. These measures include the presumption of authorship or ownership for the purpose of applying enforcement measures in the area of related rights, as well as in the area of database protection.

Another important part of the Enforcement Directive constitutes provisional and precautionary measures that in the national law are already embraced by the Code of Civil Procedure. The draft bill proposes only a minor amendment in this respect. Also, corrective measures stipulated by the Enforcement Directive are already included in the framework of relevant legal acts; notably Industrial Property Law and the Copyright and Related Rights Act. However, the bill proposes certain changes also in this area aimed at achieving a more flexible application of corrective measures.

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Injunctions envisaged in the Enforcement Directive in addition to measures already covered by the Code of Civil Procedure and the Civil Code will be also introduced into Industrial Property Law, the Copyright and Related Rights Act, Act on Legal Protection Databases, and the Act on Legal Protection of Plant Species.

The regulatory approach towards such issues like damages, alternative measures, publication of judicial decisions and evidence, as well as provisions on the right to information on the origin and distribution networks of goods or services which infringe intellectual property rights also was adjusted to *acquis communaitaire* requirements.

Moreover, in regard to the implementation of certain provisions of other Directives, the draft Act envisages certain minor amendments, e.g. it introduces the definitions of ‘satellite’ and ‘communication to the public by satellite', as defined in Directive 93/83/EEC, into the Copyright and Related Rights Act and it specifies the way of establishing the term of protection of phonograms and videograms according to Directive 93/98/EEC. It also provides, according to Directive 96/9/EC, that a *sui generis* right for the maker of a database is applied irrespective of the eligibility of that database for protection by copyright (possibility of cumulative protection).

Projekt z dnia 21 sierpnia 2006 r., Ustawa z dnia … r. o zmianie ustawy o prawie autorskim i prawach pokrewnych oraz o zmianie innych ustaw

http://www.mkidn.gov.pl/website/document/?docId=470

Draft act of 21 August 2006 amending the act on copyright and neighbouring rights

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