[BG] New Development to the Amendments to the Copyright Act

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On 16 July 2010 the draft amendments to the Закон за авторското право и сродните му права (Copyright and Related Rights Act) were filed in Parliament by the Government. In general the draft was approved by a decision of the Council of Ministers on 16 May and had to be filed earlier, but some doubts arose regarding the provisions regulating the obligations concerning the payment of compensation for personal use (levies) and the draft was revised.

According to the provisions of May 2010 the Government took the view that additional rules for the collection of levies were necessary in order that the mechanism provided by the Law from 1993 (see IRIS 2010-7: 1/9) should start working effectively. Later, the Government changed its opinion due to the opinion of Advocate General Trstenjak on ECJ Case no 467/08 (SGAE, of 11 May 2010). According to this opinion the levy for private copies imposed on digital equipment, devices and media should be limited to cases where it may be presumed that they are to be used for private copying. A national system that indiscriminately provides for such a levy on all equipment, devices and media, infringes Article 5(2)(b) of Directive 2001/29/EC, insofar as there is insufficient correlation between the fair compensation and the limitation on the private copying right justifying it, because it cannot be assumed that such equipment, devices and media will be used for private copying.

Having this in mind and also the fact that for more than ten years the levy rule in Bulgaria was not followed, the Council of Ministers decided to revoke the system for the payment of levies for all equipment, devices and media, not just digital ones. In the recent bill it is proposed that Article 26 of the Copyright Act regulating the levy shall be deleted. This means that the use of protected works for personal use will be subject to the same rules as the use for commercial purpose. The user is obliged to obtain the consent of the rightsholder and to pay remuneration for every kind of use and for every time the work is used.

The amendments concerning the introduction of administrative control on the activities of the collecting societies and some temporary measures against copyright infringements are kept. The hope is that these rules will ensure a fair balance between the rightsholders affected by the private copying, to whom the compensation is owed under the general rule, on the one hand and the persons liable to pay the compensation on the other.

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ЗАКОН за изменение и допълнение на Закона за авторското право и сродните му права

http://www.parliament.bg/bills/41/002-01-66.pdf

Draft amendments to the Copyright and Related Rights Act

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