[BG] Development of the Amendments to the Copyright Act

IRIS 2010-10:1/15

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In September 2010 the draft amendments to the *Закон за авторското право и сродните му права* (Copyright and Related Rights Act - ЗАПСП) were successfully passed in two Parliamentary Committees (see IRIS 2010-8: 1/15).

On 16 September 2010 all the members of the Legal Affairs Committee except one voted 'for' the proposed amendments. One week later their colleagues from the Culture, Media and Civil Society Committee also approved the amendments with a majority. However, both committees agreed that the draft should be reviewed because there was a variance between some of the provisions and an obvious discrepancy between the interests of the rightsholders and the end users.

Some international experts in Copyright Law were not that optimistic in their opinion of the bill. A counsellor of the International Federation of Phonographic Industry (IFPI) stated that the European Commission could launch an infringement procedure against Bulgaria if the changes to copyright law were adopted in their current form. He highlighted three main problems: 1) the elimination of Art. 26, which introduces compensation fees (levies) for the copying of protected content for personal use; 2) the extensive administrative obligations that are imposed on collecting societies and 3) the special committee that must pre-approve the charges of these societies. Most of the collective management organisations, which were initiators of the changes but in the opposite direction, are against the amendments. They claimed there was a need for more detailed regulation in order to ensure the collection of levies, because for more than 15 years these had not been paid by the persons obliged to do so, and for better control by the Ministry of Culture of the organisations that act as collecting societies, because there are too many that assign rights to end users but in fact do not have the right to represent any repertoire.

By law, these fees are paid by manufacturers or importers of blank media (disks, memory sticks) and recording devices and serve to compensate rightsholders in the field of music, theatre and cinema for the private copying of their works. According to the law copyright-protected content can not be copied without the permission of the rightsholders.

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According to Directive 2001/29/EC in some cases the use of protected content without the consent of the rightsholder is possible, but only against an equitable compensation. At the moment the bill provides that everyone can use protected content for private copying against such compensation, but with the cancellation of Art. 26 it is not clear who will have to pay this compensation, or when and how much it will be. This means that the law will not guarantee fair compensation for the rightsholders and the exception of the exclusive right will not comply with the requirements of the Directive.

Referring to the changes to Art. 40 (see points 2 and 3 above) there is some positive approach in the idea of the bill to strengthen the administrative control on the activities of collecting societies, but at the same time the pre-approval of the tariffs by three ministers and some other measures are inadequate to protect the principle of free economic initiative. The only organisation that backs the proposed amendments to Art. 40 is the Association of Bulgarian Broadcasting Operators, which has refused to pay any charges to the only organisation that represents Bulgarian and foreign phonographic producers and performers, PROPHON, for more than one year.

Закон за авторското право и сродните му права

Draft amendments to the Copyright and Related Rights Act

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