[BE] Proposal of Bill for Better Protection of Cultural Creations on the Internet

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On 26 January 2011 a bill intended to achieve better protection of cultural creations on the Internet was formally proposed. The proposers (members of the Mouvement Réformateur (MR), a liberal party from French-speaking Belgium), emphasising the fundamental importance of cultural creations for every society and highlighting the danger represented by the activity of illegal downloading, stress the need for an appropriate balance between protection for cultural creations and respect for individual liberties.

The system proposed is principally built on five pillars. Firstly, the proposal suggests intensifying the fight against so-called hacker-sites (Articles 3 and 4), by imposing additional measures to stem their continuous growth. For example, providers that are aware of the existence of such sites without reporting this to the competent authorities risk more severe sanctions. Secondly, the proposal aims at informing about and encouraging the use of the legal online offer (Articles 5, 6 and 25), in order to bring about a change in attitude within the community of Internet users. The third pillar consists in creating a system of database operators through which creations are made available to the public (Articles 7 and 11). According to the fourth pillar, providers should deliberate on the conditions for and restrictions to exchanging creations that are protected by copyright law (Articles 12 and 13). Fifthly and most importantly, the proposal implements a four-strike policy with regard to internet users who fail to comply with the imposed conditions and restrictions for exchanging protected creations or who illegally download such creations (Articles 14-24). At an early stage they are only cautioned (Article 17, 1°). If a new violation takes place within six months, a fine is imposed (Article 17, 2°). If the user keeps violating the rules his/her file is sent to the public prosecutor, which can take various measures, such as financial settlement or bringing the case before the courts (Article 18). The latter can impose a fine and reduce the user's access to a public online communication service (only broadband Internet is blocked at this stage, making downloading extremely difficult). Finally, in cases of recidivism, the fine is doubled and access to the Internet can be entirely cut off(Article 18, 8°).

This proposal bears a resemblance to the French Création et Internet law, in which so-called Hadopi-measures are imposed, including a similar (three-step) gradual response to violations. The proposal follows the optional bicameral procedure

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(Article 78 of the Belgian Constitution) and, after having been amended by the Senate, it is now pending before the Kamer van Volksvertegenwoordigers (Chamber of Representatives) of the Belgian Parliament.

Proposition de loi favorisant la protection de la création culturelle sur internet

http://www.dekamer.be/FLWB/PDF/53/1120/53K1120001.pdf

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