[BG] Public Broadcaster's Usage of Film Excerpts Does not Infringe Copyrights

IRIS 2013-2:1/11

Ofelia Kirkorian-Tsonkova
Sofia University "St. Kliment Ohridski"

On 3 December 2012, the Administrative Court of Sofia City confirmed the decision of the first-instance court which anulled the fine of the Ministry of Culture for infringement of an independent film producer's copyright. Parts of a film protected by copyright had been used in the programme broadcast by the Bulgarian National Television (BNT).

The facts of the case are as follows: The production company Manifactura EOOD (Manifactura) was contractually bound with the BNT. According to the contract, Manifactura is obliged to produce episodes for the programme BuntArt on a weekly basis. The episodes were included in BNT's programme. In October 2011 Manifactura produced an episode in which several excerpts from the film "Hunting of Small Predators" had been used without the consent of the producer (simultaneously director), the script-writer or the cinematographer. According to Bulgarian law, the aforementioned have the right to prohibit usage of parts of the film by third parties.

All the rightsholders of the film lodged a complaint with the Council for Electronic Media (CEM) alleging an infringement by BNT and Manifactura. CEM forwarded the claim to the Ministry of Culture with a recording of the programme as evidence for the unauthorized usage of parts of the film. The Ministry of Culture did not consider the BNT as liable for the infringement. Instead, Manifactura was held responsible and was fined BGN 2,000 (about EUR 1,000).

Manifactura appealed the fine claiming that it was not clear who exactly the rightsholders of the film are. Their full names had not been mentioned in the penalty notice. Hence, Manifactura claimed not to be not able to defend its position effectively.

The first-instance court followed this reasoning, even though the initial written complaint at CEM was signed with clearly written names of the rightsholders. Likewise, the names were indicated in the official film registration certificate from the Ministry of Culture. Furthermore, the film itself displays the rightsholder's names. According to Article 6 of the Bulgarian Copyright and Related Rights Act, the name outlined in the original gives evidence of the rightsholder, unless otherwise proven. Thus, Manifactura had sound legal evidence for potential

© European Audiovisual Observatory (Council of Europe) 2026

proceedings.

The Court nevertheless upheld the reasoning of the first-instance court. Additionally, the Court stated that the usage of parts of the film took place in conjunction with a documentary analysis of the development of Bulgarian film production. Hence, parts of the film could be used without consent of the rightsholders and without any remuneration. The Court did not comment on the fact that the names of the rightsholders have not been indicated throughout the programme.

Административен Съд София-Град, I Касационен Състав, 03/12/2012

http://85.91.141.110/BCAP/ADMC/WebData.nsf/ActsByCaseNo/8D2C7C5C151C7BEFC2257ACA002D969A/$FILE/temp41247426412037EFB69A8667E238D4C2257ACA00288786.pdf

Decision of the Administrative Court of Sofia City of 3 December 2012

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026