

[MK] Amendments to Copyright Law for improvement of Author's Rights Protection

IRIS 2014-1:1/33

*Borce Manevski
Independent Media Consultant*

In October 2013, the amendments of Закон за заштита на авторските и сродните права (Law on Protection of the Copyright and Neighbouring Rights) have been adopted by the Macedonian Parliament. Their purpose is to improve the protection of copyrights and related rights in the country. Shortcomings in the text of the Act and its implementation have been detected both by the implementation authorities as well as by the licensed collecting societies. The EU Commission in its Country's Progress Report for 2013 noted: "The law on Copyright and Neighbouring Rights is not aligned with the World Intellectual Property Organisation (WIPO) Performances and Phonograms Treaty. The exclusion of phonogram rights and several disputes impeded the work of the two licensed collective rights management societies."

According to the exposé of the Ministry of Culture to the Parliament, the system for collective management of copyrights had experienced implementation shortcomings in practice, especially with remuneration for the broadcasting of audio and audio-visual content. As a countermeasure the Ministry of Culture created an instrument for its direct access in the tariffs setting process between the copyright management organisations and the users of material subject to copyrights. The global network of authors' societies (Confédération Internationale des Sociétés d'Auteurs et Compositeurs - CISAC) raised concerns about the amendment. "Above regulation is disregarding the private nature of the rights at stake and arbitrarily precludes the legitimate possibility of the creators to determine the economic conditions for the use of their works. It also deprives users concerned from the necessary economic flexibility in adjusting their business models in accordance with the CMO's demands via free negotiations", reads CISAC's open letter to the Macedonian Government.

Part of the incorporated new legislation (Art. 135) envisages an obligation for the broadcasters to install and run special software i.e. a so called "system for electronic evidence", which will register all broadcast copyrighted content. The Law on Broadcasting obliges the broadcasting companies to broadcast domestic music for which they must pay the copyright licence. According to the broadcasting companies, they are put into position against their will to broadcast and pay for something they are not interested in broadcasting. CISAC and its local Macedonian member, ZAMP, see a possibility for improvement of the reporting process about the usage of copyrighted materials by the broadcasters. However,

they propose an “industry driven approach” for implementation of the software solutions, rather than interventions by the Ministries of Culture and Information Society in the tariffs setting.

Закон за заштита на авторските и сродните права

<http://www.kultura.gov.mk/index.php/legislativa/2011-03-04-10-39-07/944-predlog-na-zakon-za-izmenuvanje-i-dopolnuvanje-na-zakonot-za-avtorskoto-pravo-i-srodnite-prava>

Law on Protection of the Copyright and Neighbouring Rights

<http://www.kultura.gov.mk/index.php/legislativa/2011-03-04-10-39-07/281-zakon-za-avtorskoto-pravo-i-srodnite-prava>

