[BG] Copyright Act amendments implement the orphan works Directive

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On 12 February 2015, the Bulgarian Parliament adopted amendments to the Copyright and Related Rights Act, aimed at implementing Directive 2012/28/EU on certain permitted uses of orphan works.

The amendments, in force from 24 February 2015, closely follow the provisions of the Directive and introduce the concept of an orphan work, which previously was not regulated by Bulgarian law. The new provisions have limited scope and, according to Article 71b of the Copyright and Related Rights Act, they are applicable only to publicly accessible libraries, educational establishments, museums, archives, film or audio heritage institutions with an official address in Bulgaria and the public service broadcaster. These organisations are entitled to use orphan works only in order to achieve aims related to their public interest missions, in particular the preservation of, restoration of and provision of cultural and educational access to works and phonograms contained in their collection. They may generate revenues in the course of such uses for the exclusive purpose of covering the costs of digitising orphan works and making them available to the public.

With respect to the type of the works concerned, the amendments apply to: 1) works published in the form of books, journals, newspapers, magazines or other writings contained in the collections of publicly accessible libraries, educational establishments or museums, as well as in the collections of archives or of film or audio heritage institutions; 2) cinematographic or audiovisual works and phonograms contained in the collections of publicly accessible libraries, educational establishments or museums, as well as in the collections of archives or of film or audio heritage institutions; and 3) cinematographic or audiovisual works and phonograms produced by public service broadcasting organisations up to and including 31 December 2002 and contained in their archives. Such works must be protected by copyright or related rights and be first published in a Member State or, in the absence of publication, first broadcast in a Member State, provided that the works compose an orphan work according to the criteria of the Act.

The new provisions will also apply to works and phonograms referred to in the previous paragraph which have never been published or broadcast, but which

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have been made publicly accessible by the organisations mentioned above with the consent of the rightholders, provided that it is reasonable to assume that the rightholders would not oppose the uses by the above-mentioned organisations in order to achieve aims related to their public interest missions.

According to paragraph 4 of the transitional provisions of the new Act, the new provisions will apply only to works and phonograms which are under legal protection on 29 October 2014 and after this date.

Concerning the sources used for the diligent search, the Bulgarian legislator also follows the Directive strictly, providing for future consultations between the Minister of Culture and rightholders' organisations and copying the list of minimum sources as given in the Annex of the Directive.

The new law provides for the right of the rightholders to terminate the orphan work status of the works on which they own the copyright or related rights at any time, but no explicit rules are given for the procedure. If the work is deleted from the register of the orphan works, the rightholder could claim a fair remuneration for the use by the organisations during the last 5 years before the termination of the orphan work status.

Закон за допълнение на Закона за авторското право и сродните му права

http://www.parliament.bg/bg/laws/ID/15150

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