[RO] Modification of the Copyright Act

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A new Act on the modification and completion of the Law no. 8/1996 on copyright and related rights (Lege pentru modificarea şi completarea Legii nr.8/1996 privind dreptul de autor şi drepturile conexe) was promulgated by Romania's President on 24 March 2015 (Act no. 53/2015) and published in the Official Journal of Romania no. 198/2015 part I. The Draft Law was adopted by the Senate (Upper Chamber of the Parliament) on 15 December 2014 and by the Chamber of Deputies (Lower Chamber) on 25 February 2015 (see IRIS 2006-8/27). The Act transposes Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending the Directive 2006/116/EC on the term of protection of copyright and certain related rights.

The new act aims to change the term of protection of economic rights of performers, by extending them from 50 to 70 years. The term of protection for musical compositions with words is also extended to 70 years from the death of the last surviving from among the lyricists and composers. The new provisions distinguish, in terms of the duration of protection, between the publication or the legal communication of a phonogram and the publication or the legal communication other than in a phonogram. The act also regulates issues regarding the interpretation and execution of rights transfer contracts between performers and phonogram producers. To translate the terms of non-recurring and recurring remuneration and to avoid misinterpretation of these terms, the act uses the terms "single remuneration" and "compensation paid gradually". According to the new paragraph (3) of Article 27, the term of protection of a musical composition with words shall expire 70 years after the death of the last survivor from among the lyricists and composers, whether they were or were not designated as co-authors, provided that any word-based contributions to the musical compositions were created specifically for that purpose.

According to the new wording of Article 102(1), the term of protection of the economic rights of performers is 50 years from the interpretation or execution, with the following exceptions: a) if the fixation of the performance other than in a phonogram is legally published or communicated to the public during this period, the rights shall expire 50 years from the first publication or first communication to the public, depending on which of these is the earlier; b) if the fixation of performance in a phonogram is legally published or communicated to the public during this period, the rights shall expire 70 years from the first publication or the

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first communication to the public, depending on which of these is the earlier.

According to the new wording of Article 106(1), the duration of the protection of the economic rights of the producers of phonograms is 50 years from the date of the first fixation. However, if during this period the phonogram has been lawfully published or communicated to the public by law, the duration of the rights will be 70 years from the date on which the first publication or communication to the public occurred.

In 2014 the European Commission started an infringement procedure against Romania for not having transposed the Directive 2011/77/EU into national legislation.

On 23 March 2015 the Romanian Senate adopted another draft Law on the modification and completion of Act no. 8/1996 on copyright and related rights. The decision of the Chamber of Deputies will be final. The second draft Law aims to correct the methodology of the remuneration payable to performers and producers of phonograms for broadcasting trade phonograms and those phonograms published for commercial purposes or reproductions thereof by broadcasters. This methodology was considered unfair because only the large users and collecting societies took part in negotiations, while the collecting societies have virtually a monopoly position in the market. In order to have a fair methodology, the initiator proposed that representatives of the employers' associations of local licensed users be present at the negotiations and that the fixed amount or minimum payment by each broadcaster is to be proportionate to the potential recipients of the programmes.

Legea nr. 53/2015 pentru modificarea şi completarea Legii nr.8/1996 privind dreptul de autor şi drepturile conexe

http://www.dreptonline.ro/legislatie/legea_53_2015_modificare_lege_8_1996_dreptul_autor_drepturile_conexe.php

Act no. 53/2015 on the modification and completion of the Law no. 8/1996 on copyright and related rights

Proiect de Lege nr. 315/2015 pentru modificarea şi completarea Legii nr.8/1996 privind dreptul de autor şi drepturile conexe, forma adoptată de Senat

http://www.cdep.ro/proiecte/2015/300/10/5/se367.pdf

Draft Law no. 315/2015 on the modification and completion of the Law no. 8/1996 on copyright and related rights, as adopted by the Senate

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