[AT] Draft Bills Transposing EC Database Directive Tabled

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In May the Austrian Federal Ministry of Justice tabled two draft bills to transpose Directive 96/9/EC of 11 March 1996 concerning the legal protection of databases, into Austrian law. One of the Bills proposes a Federal Act to amend the Copyright Act (Urheberrechtsgesetz-Novelle 1997 - Copyright Amendment Act); the other concerns the law applicable to databases (Datenbankrechtsgesetz -Database Protection Act). Both drafts carry extensive explanatory memorandums.

The drafts are open to comment until 14 July 1997 under the "expert opinion procedure". The drafts (if necessary in a revised form) will then presumably be submitted by the Federal Government to Parliament as Bills. Although the central sui generis right may by its nature be qualified as being related to copyright, its wide-ranging scope means that it should be dealt with not in the same Act (ie in Section II of the Austrian Copyright ActUrheberrechtsgesetz) but in a new specific Act. To make reference to the new protection law easier, the Ministry of Justice suggests calling this protection "database protection" and the corresponding planned legislation the "Database Protection Act".

Basically, and in the interests of maximum uniformity throughout the EC in the form of database law, the draft Bill sticks closely to the wording of the Directive, although there are a number of deliberate divergences. For instance, the modest provisions of Article 10, para.3 of the database Directive - systematically justified! - are turned into specific provisions concerning adaptations of protected databases, which recall the corresponding regulation contained in copyright legislation.

This side-steps the copyright content of the Database Directive; such conditions should not be taken up as lex fugutiva in the Database Protection Act, but should be included in the Copyright Act by means of a minor amendment.

There then follows an explanation that databanks are collections within the meaning of Section 6 of the Austrian Copyright Act and therefore enjoy copyright protection as collective works under the provisions of the Act. In addition, with reference to the section on computer programmes, a separate section with special provisions for databanks should be included. Basically the draft merely grants authors exclusive "rights of reproduction, exhibition and performance",

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excludes the right to copy a work for personal use in respect of electronic databases, and makes provision for the mandatory protection of legitimate users. Otherwise, the existing state of law is considered to be in line with the Directive.

The broad definition of what constitutes a database and technical progress (heading "video on demand") make the Directive database and its transposition into member States' national legislation an important legal reference for the audio-visual industry as well.

Entwurf des Bundesgesetzes über das Datenbankrecht. (Datenbankrechtsgesetz - DBG)

http://www.netlaw.at/E_DBG.html

Draft Federal Bill on Databank Law (Datenbankrechtsgesetz - DGB)

Entwurf des Bundesgesetzes, mit dem das Urheberrechtsgesetz geändert wird (Urheberrechtsgesetz-Novelle 1997 - UrhG-Nov 1997)

http://www.netlaw.at/E_UrhG-Nov_1997.html

Draft a Federal Bill to amend the Copyright Protection Act (Urheberrechtsgesetz-Novelle 1997 - UrhG-Nov 1997)

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