[GR] The implementation of the Digital Single Market Directive 2019/790 into Greek legislation: Law no 4996/2022

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On 24 November 2022, Directive 2019/790 (DSM Directive) was incorporated into the Greek legal order by virtue of Part B of Law 4996/2022, which amends Law no 2121/1993 on copyright and related rights in various areas.

Law no 4996/2022 generally follows the provisions set by the DSM Directive. However, in specific areas the Greek legislator adopts favourable measures that enable right holders to maintain a certain degree of control over the exploitation of their work. Law no 4996/2022 provides for several exceptions to copyright and related rights in order to facilitate text and data mining for the purpose of scientific research (Articles 8 and 9), the use of protected works in digital, cross-border teaching activities (Article 10), and the preservation of cultural heritage (Article 11). In the field of teaching activities, the new Article 21, paragraph 2 (b) of Law no 2121/1993 (as amended by Article 10 of the Law no 4996/2022) stipulates that the right to digitally reproduce, communicate or make available to the public a protected work cannot exceed 5% of the work as a whole nor can it be more than one article legally published in a newspaper or magazine, one poem or one artwork (including photographs). Moreover, right holders and editors have a right to an equitable remuneration depending on the extent of the above-mentioned use, as well as the value of the reproduced works (new Article 21, paragraph 5 of the Law no 2121/1993). Article 8 of the DSM Directive provides for the use of out-of-commerce works by cultural heritage institutions for non-commercial purposes according to a non-exclusive licence issued by a collective management organisation. Article 13 of Law no 4996/2022 restricts the scope of this exception only to works that have been out-of-commerce for at least ten years, calculated from 1 January of the year following their publication. Collective licenses with an extended effect issued by a collective management organisation (Article 12 DSM) can cover the use of protected works within the Greek territory but, according to Article 14 of the Law no 4996/2022, audiovisual works are excluded.

The new related right accorded to publishers receives detailed attention by the Greek legislator. According to Article 18 of Law no 4996/2022, the authors of works incorporated in a press publication (mostly journalists) are entitled to 25%

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of the publisher's annual revenue in the case where the publisher employs less than 60% of the authors through regular employment contracts or 15% in case the number of regularly-employed authors exceeds the above threshold (new Article 51B paragraph 4 of the Law no 2121/1993). Moreover, a procedure of negotiation between publishers and online platforms has been adopted to facilitate the swift achievement of an agreement on remuneration. In case of failure of the negotiations, a mediation process is foreseen by the approval of the Telecommunications and Postal Commission (EETT), which may also request economic data from the parties in order to determine such remuneration (new Article 51B paragraphs 5 and 6 of Law no 2121/1993). Otherwise, remuneration is to be determined by the courts (new Article 51B paragraph 7 of the Law no 2121/1993).

Article 17 of the DSM on the use of protected content by online content-sharing service providers is transposed without any changes. Articles 18 to 22 of the DSM are also incorporated into the Greek legislation by Articles 21 to 27 of Law no 4996/2022. Their scope of application covers both authors and performers. A single exception has been inserted in favour of producers. According to Articles 25 paragraph 4 and 27 paragraph 6 of the Law no 4996/2022, the right of revocation does not apply to cinematographic and audiovisual works.

Law no 4996-2022, 24 November 2022

Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC

https://eur-lex.europa.eu/eli/dir/2019/790/oj#:~:text=Directive%20%28EU%29%202019%2F790%20of%20the%20European%20Parliament%20and,Directives%2096%2F9%2FEC%20and%202001%2F29%2FEC%20%28Text%20with%20EEA%20relevance.%29

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