[BG] Bulgaria transposed Directive 2019/789 and Directive 2019/790

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On 1 December 2023, the act amending and supplementing the Copyright and Neighbouring Rights Act – the Act (*Закон за изменение и допълнение на Закона авторското право и сродните му права)* was promulgated in the state gazette.

The Act transposes the provisions of 1) Directive 2019/789 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes; and 2) Directive 2019/790 on copyright and related rights in the Digital Single Market.

To add some context, the implementation process in Bulgaria started in June 2020 with consultations on a preliminary draft which were initiated by *Министерство на културата* (the Ministry of Culture). Based on this, an updated draft was published by the Ministry of Culture for official public consultation in September 2021. This happened after the implementation deadlines had already passed and after the European Commission had opened infringement procedures against Bulgaria and 22 other member states.

Following these consultations, a final draft was approved by the government and submitted to parliament. The Act was finally adopted by parliament on 23 November 2023.

During the long period of implementation (both before entering parliament and afterwards), relevant stakeholders (including collective management organisations (CMOs), international media and tech companies, and others that would be affected by the new rules) provided multiple statements and proposals for amendments. On the one hand, the conflicting interests of the various parties and the controversies over some of the texts of the directives contributed significantly to the delay. On the other hand, stakeholders actively participated in all of the stages and thus helped to some extent in clarifying some of the controversies in order to reach a balanced final text.

Ultimately, the Act introduces the mandatory requirements of Directive 2019/789 and Directive 2019/790 as well as a number of provisions that were left at the discretion of each member state. The Act also stipulates changes to provisions

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that are not covered by the EU directives. A brief, non-exhaustive overview of the new provisions is as follows:

- The Act explicitly provides that copyright exceptions cannot be circumvented and any such agreements will be considered void.

- The Act introduces new rules on the transmission of programmes through direct injection.

- It also provides new and important definitions of the transmission, retransmission, etc. of programmes.

- The Act includes the copyright exceptions for:

• text and data mining for the purposes of scientific research,

• the use of works and other subject matter in digital and cross-border teaching activities,

• the preservation of cultural heritage,

• quotation, criticism and review,

• use for the purpose of caricature, parody or pastiche.

- Article 17 of Directive 2019/790 about the liability of online service providers for sharing content has been transposed.

- The Act abolishes the historic rule that works can only be used for a period of 10 years. This limitation was a significant hindrance to software developers and other parties relying on the use of works.

- The Act also stipulates the rules on the "country of origin" principle for ancillary online services.

- The Act now recognises the rights of publishers of press publications.

In conclusion, many of the changes follow the wording of the directives very closely and are generally a step in the right direction. High praise can be given for some of the changes to longstanding national provisions not covered by the directives which constitute significant progress in terms of modernising the national legislation and abandoning outdated understandings embedded within it.

Закон за изменение и допълнение на Закона за авторското право и сродните му прав

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