

Forthcoming changes in copyright law



An amendment to Act No. 618/2003 Coll. on Copyright and Rights related to Copyright (the “Copyright Act”) and Act No. 212/1997 Coll. on Required Copies of Periodicals, Non-Periodicals and Audiovisual Copies is currently in its second reading in the legislative process of the National Council of the Slovak Republic. The proposed changes are expected to come into effect as of 1 November 2013.

Legal Framework

The main purpose of the amendment to the Copyright Act (the “Amendment”) is to implement into Slovak law Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights.

The Amendment also fully implements into Slovak law Article 5 par. 2 lit. c) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, which is optional and has only been partially implemented into Slovak legislation up to now. The proposed implementation extends the range of material that in some cases can be copied without the author’s prior consent (use of work by a library or an archive).

Significant changes

License contracts - The mandatory written form of a license contract will apply only when granting an exclusive license and concluding a mass license contract and a collective license contract. However, if the license contract is not concluded in a written form, each party is entitled to request the issuance of written confirmation proving that the license contract was actually concluded. If the other party does not issue the written confirmation within 15 days of the receipt of the request, the license contract is deemed not to have been concluded. If the license contract is concluded in a written form, the granting of a sub-license and any transfer of the license must also have a written form, if not agreed otherwise.

The Amendment introduces new provisions concerning the scope of a license and the license period. Unless the license contract stipulates otherwise, the license is deemed to be

granted for the period necessary to achieve the purpose of the contract. Furthermore, if the purpose of the contract does not indicate the limit of the license period, the license is limited for a period usual for the specific type of work, however, only up to one year from the date on which the license was granted.

Unless the license contract stipulates the scope of the license and unless the purpose of the license contract indicates otherwise, it is assumed that the territorial scope of the license is limited to the territory of the Slovak Republic and the material scope is limited in a way that is usual for the specific type of work and its usage.

The Amendment should allow the determination of the content of the license contract, or a part thereof, by reference to the license terms. The parties must be familiar with these terms or the terms must be available to the parties at the time of concluding

the license contract. This new provision reflects the needs of common practice and covers cases typical for the online conclusion of license contracts, where the licensor uses a reference to the license terms on its website.

In addition, the authors should be entitled to offer the granting of a license through an act addressed to unspecified persons, whereas an act which indicates consent to the license terms is deemed as an acceptance of such offer. These new provisions relate only to non-exclusive licenses and licenses provided without consideration. The new regulation will allow the use of so-called public licenses (e.g. Creative Commons, GNU, GPL, BSD, EUPL) and will enable specific methods of concluding license contracts (shrink-wrap, click-wrap etc.).

Extension of copyright protection

- The Amendment strengthens the position of performers and record producers by extending their copyright protection from 50 to 70 years.

Conclusion

The main purpose of the Amendment is to adjust Slovak copyright legislation to the requirements of common practice and to fulfil the commitments of the Slovak Republic to implement EU Directives into its legal system.



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