

III MONITORING OF THE PROCESS OF ADOPTION OF NEW LAWS

In the period covered by this Report, the National Assembly of the Republic of Serbia did not pass any regulations of relevance for or with implications on the media sector. However, the Government of the Republic of Serbia did propose to the National Assembly the adoption of the Law on Amendments to the Law on Copyright and Related Rights, whereas certain proposed amendments are of significance for the media sector.

1. The Law on Amendments to the Law on Copyright and Related Rights

Article 75 of the Stabilization and Association Agreement obligates Serbia to ensure the level of protection for intellectual property similar to the level of protection in the EU. As stated in the Law on Amendments to the Law on Copyright and Related Rights that the Government forwarded to the Assembly for adoption on August 11, when answering the questions from the EU Questionnaire concerning Chapter 7 “Intellectual Property Rights”, it was established that some provisions of certain EU Directives regulating the subject matter of copyright and related rights had not consistently been incorporated into local legislature. For this reason, most of the proposed amendments represent the consistent transposition of provisions of EU Directives regulating the subject matter of copyright and related rights into the local legislature. Also, during negotiations concerning Republic of Serbia’s accession to the World Trade Organization, it emerged that individual provisions of the Agreement on trade-related aspects of intellectual property – TRIPS were not consistently transposed into the Law, thus necessitating changes in that respect as well.

The Draft Law provides for amending Article 43 of the Law on Copyright and Related Rights that stipulates copyright limitations concerning press, radio and television reports to the public on current events. The new text of this provision provides that the following shall be allowed when reporting to the public by way of press, radio and television and other media on current events, without the author’s permission and without paying a fee:

- copying published work(s) that appear as integral part(s) of the current event reported to the public;
- preparing and copying short excerpts or abstracts from newspaper or other similar articles in overviews of the press;
- copying public political religious or other speeches held in state bodies, religious institutions or on occasion of state or religious festivities;
- free use of daily information and news that have the nature of newspaper reports.

The government also proposes amendments to the provision of Article 49 of the Law that regulates the right to quote. Firstly, amendments provide for the possibility to quote even entire short author's pieces. Until now, it was possible only to quote parts of authorship works, which in practice excluded the possibility of quoting short works of art, e.g. epigrams, on these grounds. Also, amendments provide an additional condition for the use of the right to quote, i.e. that the quote is used in accordance with good customs.

Finally, the draft allows for free treatment of a published work of art if it is a parody or caricature, if it does not create confusion or cannot contribute to creating confusion regarding the source of the work, which will certainly improve legal security in publishing parodies, caricatures and general satirical content in the media.

Also, the proposed amendment to Article 183 of the Law, regulating the obligations of users – and inherently the media – to collective organizations for the protection of copyright and related rights, provides for grounds to authorize collective organizations to expand the scope of their requests for the submission of lists of broadcast works of art, phonograms and interpretations. Namely, citing the provision of Article 183 of the current Law, the media – primarily in litigation against the collective organization representing producers of phonograms (OFPS) – emphasized that OFPS requests related to the submission of data concerning broadcast phonograms in the media exceeded the framework regulated by law. Now, with amending the Law, the Government intends to impose an additional obligation on the media to inform collective organizations not only on the circumstances relevant for the calculation of the fee paid according to the tariff, but also for its further distribution to owners of the rights. In practice, this will impose an additional obligation on the media to record and administrate data related to broadcast music pieces, phonograms and interpretations.