

Law 3057/2002

(Official Gazette A' 239/10 October 2002)

Article 81

Implementation of the 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 and other provisions.

1. Paragraph 1 of article 3 Law 2121/1993 (Official Journal A 25) is replaced as follows:

"1. The economic rights shall confer upon the authors notably the right to authorise or prohibit:

(a) the fixation and direct or indirect, temporary or permanent reproduction of their works by any means and in any form, in whole or in part

(b) the translation of their works

(c) the arrangement, adaptation or other alteration of their works

(d) concerning the original or copies of their works, the distribution to the public in any form by sale or otherwise. The distribution right shall be exhausted within the Community only where the first sale or other transfer of ownership in the Community of the original or copies is made by the rightholder or with his consent

(e) the rental or public lending concerning the original or copies of their works. Such rights are not exhausted by any sale or other act of distribution of the original or copies. Such rights are not applicable to architectural works and works of applied arts. The rental and public lending have the meaning provided by the Council Directive 92/100 of 19 November 1992 (Official Journal of the European Communities No. L 346/61-27.11.1992).

(f) the public performance of their works

(g) the broadcasting or rebroadcasting of their works to the public by radio and television, by wireless means or by cable or by any kind of wire or by any other means, in parallel to the surface of the earth or by satellite

(h) the communication to the public of their works, by wire or wireless means or by any other means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them. These rights shall not be exhausted by any act of communication to the public as set out in this provision.

(i) the import of copies of their works produced abroad without the creator's consent or the import of copies from a country outside the European Community, when the right over such import in Greece had been retained by the author through contract"

(articles 2, 3 par. 1 and 3, 4 of Directive 2001/29 OJEC L. 167/10 – 22.6.2001).

2. Articles 28A, 28B and 28C are added after article 28 Law 2121/1993 as follows:

Article 28A

Reproduction for the benefit of blinds and deaf-mute

“The reproduction of the work is allowed for the benefit of blinds and deaf-mute, for uses which are directly related to the disability and are of a non-commercial nature, to the extent required by the specific disability. By resolution of the Minister of Culture the conditions of application of this provision may be determined as well as the application of this provision for other categories of people with a disability”.

(article 5, para.3 (b) of Directive 2001/29).

Article 28B

Exception from the reproduction right

“Temporary acts of reproduction which are transient or incidental, which are an integral and essential part of a technological process and whose sole purpose is to enable: a) a transmission in a network between third parties by an intermediary or b) a lawful use, of a work or other protected subject-matter, and which have no independent economic significance, shall be exempted from the reproduction right”.

(article 5, para.1 of Directive 2001/29).

Article 28C

Clause of general application concerning the limitations

“The limitations provided for in Section IV of Law 2121/1993, as exists, shall only be applied in certain special cases which do not conflict with a normal exploitation of the work or other protected subject-matter and do not unreasonably prejudice the legitimate interests of the rightholder”.

3. Paragraph 2 of article 46 Law 2121/1993 is replaced as follows:

"2. The performers or performing artists have the right to authorise or prohibit:

- a) the fixation of their performance
- b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, concerning the fixation of their performance
- c) the distribution to the public of the fixation of their performance, by sale or other means. The distribution right shall not be exhausted within the Community in respect of the fixation of the performance except where the first sale in the Community is made by the rightholder or with his consent
- d) the rental and public lending of the fixation of their performance. Such rights are not exhausted by any sale or other act of distribution of the said recordings.
- e) the radio and television broadcasting of the illegal fixation by any means, such as wireless waves, satellites, or cable as well as the communication to the public of a recording with an illegal fixation of their live performances
- f) the radio and television broadcasting by any means, such as wireless waves, satellites, or cable, of their live performance, except where the said broadcasting is rebroadcasting of a legitimate broadcasting.
- g) the communication to the public of their live performances made by any means other than radio or television transmission

h) the making available to the public of fixations of their performances, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them. This right is not exhausted by any act of making available to the public, in the sense of this provision”.

(articles 2, 3 par. 2 and 3, 4 of Directive 2001/29).

4. Paragraph 2 of article 47 Law 2121/1993 obtains number 3 and paragraph 1 is replaced by paragraphs 1 and 2 as follows:

“1. The phonogram producers (producers of sound recordings) have the right to authorise or prohibit:

a) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of their phonograms

b) the distribution to the public of the above recordings by sale or other means. The distribution right shall not be exhausted within the Community in respect of the said recordings except where the first sale in the Community is made by the rightholder or with his consent

c) the rental and public lending of the said recordings. Such rights are not exhausted by any sale or other act of distribution of the said recordings

d) the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them concerning their phonograms. This right is not exhausted by any act of making available to the public in the sense of this provision.

e) the import of the said recordings produced abroad without their consent or the import from a country outside the European Community when the right over such import in Greece had been retained by the producer through contract”.

(articles 2, 3 par. 2 and 3, 4 of Directive 2001/29)

“2. The producers of audiovisual works (producers of visual or sound and visual recordings) have the right to authorise or prohibit:

- a) the direct or indirect, temporary or permanent reproduction by any means and form, in whole or in part, of the original and copies of their films
 - b) the distribution to the public of the above recordings, by sale or other means. The distribution right shall not be exhausted within the Community in respect of the said recordings except where the first sale in the Community is made by the rightholder or with his consent
 - c) the rental and public lending of the said recordings. Such rights are not exhausted by any sale or other act of distribution of the said recordings
 - d) the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them concerning the original and the copies of their films. This right is not exhausted by any act of making available to the public in the sense of this provision
 - e) the import of the said recordings produced abroad without their consent or the import from a country outside the European Community when the right over such import in Greece had been retained by the producer through contract”.
 - f) the broadcasting of the said recordings by any means including by satellite or cable, as well as the communication to the public.
- (articles 2, 3 par. 2 and 3, 4 of Directive 2001/29).

5. Paragraph 1 of article 48 Law 2121/1993 is replaced as follows:

“1. Radio and television organisations have the right to permit or prohibit:

- a) the transmission of their broadcasts by any means such as wireless waves, satellites or cable
- b) the communication of their broadcasts to the public in places accessible to the public against payment of an entrance fee
- c) the fixation of their broadcasts on sound or sound and visual recordings, regardless of whether the broadcasts are transmitted by wire or by air, including by cable or satellite broadcasting

- d) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part of the fixation of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including cable or satellite
- e) the distribution to the public of the recordings containing the fixation of their broadcasts, including the copies thereof, by sale or other means. The distribution right shall not be exhausted within the Community in respect of devices containing the recording of their broadcasts except where the first sale in the Community is made by the rightholder or with his consent
- f) the rental or public lending concerning the recordings containing the fixation of their broadcasts. Such rights are not exhausted by any sale or other act of distribution of the said recording.
- g) the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them concerning the fixation of their broadcasts. This right is not exhausted by any act of making available to the public, in the sense of this provision. (articles 2, 3 par. 2 and 3, 4 of Directive 2001/29).

6. The words “or visual or audiovisual” are deleted from article 49 par. 1 Law 2121/1993. A new paragraph 5 is added after paragraph 4 of article 49 N.2121/1993: “When visual or audiovisual recordings are used for radio or television broadcast by any means, such as wireless waves, satellite or cable or communication to the public, the user shall pay equitable remuneration to the performers, whose performances are carried on the recordings. The provisions of paragraph 1 item b, c, d and e, as well as paragraphs 2 and 4 of the present article shall be applicable *mutatis mutandis*”.

7. Item d of article 52 Law 2121/1993, as amended by article 8, para.10 Law 2557/1997, is replaced as follows:

"d) The rights of phonogram producers (producers of sound recordings) shall expire 50 years after the fixation is made. However,

if the phonogram has been lawfully published within this period, the said rights shall expire 50 years from the date of the first lawful publication. If no lawful publication has taken place within the period mentioned in the first sentence, and if the phonogram has been lawfully communicated to the public within this period, the said rights shall expire 50 years from the date of the first lawful communication to the public. However, where through the expiry of the term of protection granted pursuant to this paragraph in its version before the amendment by 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, the rights of producers of phonograms are no longer protected on 22 December 2001, this paragraph shall not have the effect of protecting those rights anew. (article 11, par.2 of Directive 2001/29).

“The rights of producers of audiovisual works (producers of sound and visual recordings) shall expire fifty (50) years after the fixation is made. However, if lawful publication or lawful communication of the device is made to the public within such period, such rights shall expire 50 years from the date of first publication or first communication to the public, whichever comes first”.

8. Article 64A is added after article 64 Law 2121/1993 as follows:

Article 64A

Injunction

Rightholders may apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right It is the same for the sui generis right of data base maker. (article 8, par.3 of Directive 2001/29).

9. Paragraph 1 of article 66 is replaced as follows:

“1. Any person who, in contravention of the provisions of this law or of the provisions of lawfully ratified multilateral international conventions on the protection of copyright,

unlawfully makes a fixation of a work or of copies, reproduces them directly or indirectly, temporarily or permanently in any form, in whole or in part, translates, adapts, alters or transforms them, or distributes them to the public by sale or other means, or possesses with the intent of distributing them, rents, performs in public, broadcasts by radio or television or any other means, communicates to the public works or copies by any means, imports copies of a work illegally produced abroad without the consent of the author and, in general, exploits works, reproductions or copies being the object of copyright or acts against the moral right of the author to decide freely on the publication and the presentation of his work to the public without additions or deletions, shall be liable to imprisonment of not less than one year and to a fine from 2.900-15.000 Euro”.

10. Paragraph 2 of article 66 is replaced as follows:

“2. The sanctions listed above shall be applicable to any person who, in contravention of the provisions of this law, or of the provisions of lawfully ratified multilateral international conventions on the protection of related rights, makes the following actions:

“A) Without the permission of the performers: a) fixes their performance, b) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the fixation of their performance c) distributes to the public the fixation of their performance or possesses them with the purpose of distribution, d) rents the fixation of their performance, e) broadcasts by radio and television by any means, the live performance, unless such broadcasting is rebroadcasting of a legitimate broadcasting, f) communicates to the public the live performance made by any means, except radio and television broadcasting, g) makes available to the public, by wire or wireless means, in such a way that members

of the public may access them from a place and at a time individually chosen by them, the fixation of their performance”.

“B) Without the permission of phonogram producers (producers of sound recordings): a) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, their phonograms, b) distributes to the public the above recordings, or possesses them with the purpose of distribution, c) rents the said recordings, d) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, their phonograms, e) imports the said recordings produced abroad without their consent”.

“C) Without the permission of producers of audiovisual works (producers of visual or sound and visual recordings) a) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the original and the copies of their films, b) distributes to the public the above recordings, including the copies thereof, or possesses them with the purpose of distribution, c) rents the said recordings, d) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the original and the copies of their films e) imports the said recordings produced abroad without their consent f) broadcasts by radio or television by any means including satellite transmission and cable retransmission, as well as the communication to the public

“D) Without the permission of radio and television organisations: a) rebroadcasts their broadcasts by any means, b) presents their broadcasts to the public in places accessible to the public against payment of an entrance fee, c) fixes their broadcasts on sound or sound and visual recordings, regardless of whether the broadcasts are transmitted by wire or by the air, including by cable or satellite d) directly or indirectly,

temporarily or permanently reproduces by any means and form, in whole or in part, the fixation of their broadcasts, e) distributes to the public the recordings containing the fixation or their broadcasts, f) rents the recordings containing the fixation of their broadcasts, g) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the fixation of their broadcasts”.

(article 8 par. 1 of Directive 2001/29).

11. Articles 66A and 66B are added after article 66 Law 2121/1993 as follows:

Article 66A

Technological measures

- “1. The expression "technological measures" means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject-matter, which are not authorised by the rightholder of any copyright or any right related to copyright as well as the sui generis right of the data base maker. Technological measures shall be deemed "effective" where the use of a protected work or other subject-matter is controlled by the rightholders through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject-matter or a copy control mechanism, which achieves the protection objective”.
(article 6 par. 3 of Directive 2001/29).
- “2. It is prohibited to circumvert, without the permission of the rightholder, any effective technological measure when such act is made in the knowledge or with reasonable grounds to know that he is pursuing that objective (article 6 par. 1 of Directive 2001/29)”.

- “3. It is prohibited without the permission of the rightholder, the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services which: a) are promoted, advertised or marketed for the purpose of circumvention of, or b) have only a limited commercially significant purpose or use other than to circumvent, or c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of, any effective technological measures”.
- (article 6 par. 2 of Directive 2001/29).
- “4. The practice of activities in violation of the above provisions is punished by imprisonment of at least one year and a fine of 2.900-15.000 Euro and entails the civil sanctions of article 65 Law 2121/1993. The One-member First Instance Court may order injunction in accordance with the Code of Civil Procedure, the provision of article 64 Law 2121/1993 also being applicable”.
- (article 6 par. 1 and 2 of Directive 2001/29).
- “5. Notwithstanding the legal protection provided for in par. 2 of this article, as it concerns the limitations (exceptions) provided for in Section IV of law 2121/1993, as exists, related to reproduction for private use on paper or any similar medium (article 18), reproduction for teaching purposes (article 21), reproduction by libraries and archives (article 22), reproduction for judicial or administrative purposes (article 24), as well as the use for the benefit of people with disability (article 28A), the rightholders should have the obligation to give to the beneficiaries the measures to ensure the benefit of the exception to the extent necessary and where that beneficiaries have legal access to the protected work or subject-matter concerned. If the rightholders do not take voluntary measures including agreements between rightholders and third parties benefiting from the exception, the rightholders and third parties benefiting

from the exception may request the assistance of one or more mediators selected from the list of mediators drawn up by the Copyright Organization. The mediators make recommendations to the parties. If no party objects within one month from the forwarding of the recommendation, all parties are considered to have accepted the recommendation. Otherwise, the dispute is settled by the Court of Appeal of Athens trying at first and last instance. These provisions shall not apply to works or other subject-matter available to the public on agreed contractual terms in such a way that members of the public may access them from a place and at a time individually chosen by them.

(article 6 par. 4 of Directive 2001/29).

Article 66B

Rights - management information

“1. The expression "rights management information" means any information provided by rightholders which identifies the work or other subject-matter protected by a related right or the sui generis right of data base maker, and which identifies the author or any other rightholder, or information about the terms and conditions of use of the work or other subject-matter, and any numbers or codes that represent such information”.

(article 7 par. 2 of Directive 2001/29).

“2. It is prohibited for any person knowingly performing the permission of the rightholder without any of the following acts: a) the removal or alteration of any electronic rights-management information, b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject-matter protected by a related right or the sui generis right of data base maker, from which electronic rights management information has been removed or altered without authority, if such person knows, or has reasonable grounds to know that by so doing he is inducing, enabling, facilitating or concealing an infringement of any

copyright or related right or the sui generis right of data base maker”.

(art. 7 par. 1 of Directive 2001/29).

- “3. The violation of the above provisions is punished by imprisonment of at least one year and a fine of 2.900-15.000 Euro and entails the civil sanctions of article 65 Law 2121/1993. The One-member First Instance Court may order injunction in accordance with the Code of Civil Procedure, the provision of article 64 Law 2121/1993 also being applicable”.
- (article 7 of Directive 2001/29).

12. At the end of paragraph 1 of article 20 of law 2121/1993 a new paragraph is added as follows: “The provision is applicable only as it concerns the reproduction by means of printing”.

13. A. At the end of article 3 of law 2121/1993 a new paragraph 4 is added as follows: “Reproduction of electronic database for private use is not permitted”.

B. In Law 2121/1993, as exists, and specifically in articles 33 par. 1 and 6, 66 par. 5, where the terms “circulation” and “circulate” appear, they are replaced by the terms “distribution” and “distribute”. In article 41 Law 2121/1993, as exists, the term “right of making available” (δικαίωμα διάθεσης) is replaced by the term “right of distribution”.

C. Paragraph 6 is added at the end of article 71 of Law 2121/1993, as follows:

“ Articles 3 par. 1, 28A, 28B and 28C, 46 par. 2, 47 par. 1 and 2, 48 par. 1, 52 item d, 64A, 66 par. 1 and 2, 66A and 66B of this Law are adopted in application 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».

14. At the end of paragraph 3 of article 66 of Law 2121/1993 a new paragraph is added as follows:

“Any infringement of copyright and related rights in the form of felony is tried by the competent Three - member Court of Appeal for Felonies”.

