

Copyright and Related Rights - Amendments -

(Official Gazette of the Republic of Serbia No. 66/2019)

Amendments to the Law on Copyright and Related Rights

The National Assembly of the Republic of Serbia adopted Amendments to Copyright and Related Rights Law (Official Gazette of the Republic of Serbia 66/2019.

The purpose of the Amendments is to further improve national protection of copyright and related rights. The most significant changes concern improvements to collective exercise of copyright and related rights, extended period of protection for pecuniary rights of interpreters and phonogram producers, and improved mechanisms of protection under civil law.

The Amendments are a part of the continued bid to coordinate the local Serbian regulations governing copyright and related rights with the EU legislation.

The improved protection of copyright and related rights under civil law offer an effective framework to ward off infringement and indemnify right-holders.

A broader range of persons can now file a legal claim; in addition to the author, right-holder, acquirer of an exclusive license, the legal claim may be also filed by a collective organization for exercise of copyright and related rights.

In addition, the legal claim may now be filed not only for an infringement of right but based on a serious threat of right infringement.

Under the Amendments, it is now possible to file the legal actions against intermediaries, i.e. persons whose services were used in connection with the infringement of copyright or related rights, a much-needed solution in the era of digitalization and reliance on the internet. The Amendments follow the European regulations, viz. the wording of the Introduction to the Directive on the Harmonization of Certain Aspects of Copyright and Related Rights in the Information Society (2001/29/EU): "In the digital environment, in particular, the services of intermediaries may increasingly be used by third parties for infringing activities. In many cases, such intermediaries are best placed to bring such infringing activities to an end. Therefore, without prejudice to any other sanctions and remedies available, right holders should have the possibility of applying for an injunction against an intermediary who carries a third party's infringement of a protected work or other subject matter in a network."

In addition, new rules for interim injunctions and measures for securing evidence now allow for timelier reactions, protecting right-holders from loss resulting from procedural reasons. For instance, the Amendments now explicitly give courts the power to order interim injunctions without waiting for statements from the opposing party, especially where if there is a threat that delays may cause the plaintiff irreparable harm.

Finally, the Amendments follow the European regulations also in terms of ruling on the amount of damages. When estimating



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damages, the courts will consider all circumstances of the case; this can include the adverse economic consequences the plaintiff has suffered, loss of profit for the plaintiff, the profit earned by the defendant through right infringement, and, where appropriate, circumstances that do not have an economic nature, like immaterial damage. In justified cases the courts may, instead of damages, award a lump-sum compensation commensurate to the amount that would have been received by the injured party had the use of copyright or related right been lawful.

The law came into force on 26 September 2019.

If you have any questions about the new statutory solutions or the patent system in the Republic of Serbia, you may contact us at predrag.groza@tsg.rs.