09/26/2023 Events

The Cabinet of Ministers approved on September 26, this year, the Draft Law amending Law No. 230/2022 on Copyright and Related Rights, developed for the partial transposition of Directive 2012/28/EU of the European Parliament and of the Council of October 25, 2012 on certain uses of orphan works. The draft was presented during the Executive meeting by the Director General of the State Agency on Intellectual Property, Eugeniu Rusu. Its approval is also a priority included in the Government's Action Plan for 2023, approved by Government Decision No. 90/2023 and aims at the legal regulation of the status of orphan works.

In essence, the legal regulation of orphan works is dictated by several reasons. A first reason would be that the absence of information with reference to the author or rightholder of the work constitutes an obstacle regarding the reproduction or making available to the public of works protected by copyright or related rights. In the same way, the creation of the normative framework for this segment will facilitate efforts to digitize and make the respective works available to the public.

Immediately, through this draft law, the following amendments were proposed:

- *regulation of the orphan work status*, which represents all those works, such as books, films, newspaper articles and other creative materials, which are protected by copyright or related rights, but whose author or rightholder cannot be identified or located, notwithstanding the making and recording of a diligent search thereof;
- *institutions entitled to use orphan works*, such as libraries, educational institutions, museums, archives, public institutions in the field of cinematography and public broadcasting and television organizations, in their capacity as institutions that can provide access to cultural heritage and can open ways of exploring the national cultural or documentary heritage. Thus, all the works, which have been identified as orphans, after a diligent search thereof, can be used by said institutions for the purpose of making them available to the public and their reproduction and only for the purpose of achieving the objectives related to their public interest missions, in particular preserving, restoring works and phonograms in their collections and providing cultural and educational access thereto;
- *termination of the orphan work status*, which occurs if the rightholder is located or identified;
- *diligent search for orphan works*, which involves the consultation by said institutions of the appropriate sources for each category of works or phonograms before using them, sources to be approved by the Director General of AGEPI and published in the Official Gazette of the Republic of Moldova.

When drafting this draft law, the Study carried out by the European Commission on the application of Directive 2012/28/EU of the European Parliament and of the Council of October 25, 2012 on certain uses of orphan works was taken into account.

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