All CCS and Cross-sectoral Advocacy Initiatives Romania Intellectual Property Cross- Sectoral Policies and Governance

New Amendment on Romanian Copyright Act: Congratulations and Concerns

CREATIVESUNITE

Co-funded by the European Union

Romanian authorities published new legislation reforming the country's copyright law. IFRRO and COPYRO welcomed the reforms, while proposing changes over the Public Lending Right provisions, to achieve compliance with EU Copyright law and Court of Justice jurisprudence.

The International Federation of Reproduction Rights Organisations (IFRRO) issued today a letter addressed to the Romanian Ministry of Culture over the new amendments on the Romanian Copyright Act nr. 8/1996.

In their letter, IFRRO and their Romanian member COPYRO congratulated the Ministry, welcoming the reforms as "a significant step forward for cultural policy and diversity and for the sustainability of Romania's creative sector". However, they highlighted implications for rightsholders and suggested changes specifically on the Public Lending Right (PLR) provisions.

The concerns raised by the two organisations underscored the "ambiguities" allowed by the text of the draft proposal, which "blur the distinction between public lending as an exception to copyright, and lending and rental as exclusive rights".

Their intervention focused on the proposed rule that "lending entails no commercial advantage when user charges do not exceed operating expenses" as it could allow for "private entities [to] artificially inflate direct or indirect operating costs and charge substantial fees, thereby offering what is in reality a rental service under the guise of PLR". They emphasised on the proposed wording "units accessible to the public" as it could imply an extension of PLR "beyond accredited public libraries to

private-law entities (directly or indirectly) acting as commercial intermediaries, while the rule permitting user charges up to operating expenses lacks the necessary safeguards against inflated costs".

According to their rationale, "Such gaps could erode the exclusive rights of authors and publishers and undermine the requirement that PLR deliver equitable remuneration". Instead, they recommended "limiting the scope of eligible institutions to accredited public libraries and user charges strictly to audited cost-recovery directly linked to lending activities".

They justified their recommendations as "needed" in order to secure compliance with Directive 2006/115/EC on rental right and lending right and on certain rights related to copyright in the field of intellectual property. Their justification included jurisprudence on the decision on VEWA v. Belgium (C-271/10) of the Court of Justice of the European Union, according to which "the Court held that remuneration under PLR must not be purely symbolic". They interpreted the Court's decision suggesting that it "makes clear that Member States must ensure that PLR provides meaningful, enforceable remuneration to (at least) authors and cannot be structured in a way that erodes their exclusive rights".

Find more the full letter here

Image by Nick Youngson - CC BY-SA 3.0 Alpha Stock Images