

Opening copyright eyes to the blindness world

Key words: Copyright, disability, visually impaired persons, access to copyright works, Marrakesh Treaty

1) Research object

Recent activity of the international and EU legislator in the field of copyright law demonstrates the perception of the need to open this law to the needs of various users of intangible goods. Mostly appreciated are the acts aiming at providing access to goods protected by copyright for people with so called print disability. Adopted within the frame of WIPO - The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired or Otherwise Print Disabled - and the follow-up EU acts - the Regulation no. 2017/1563 and the Directive 2017/1564 - opened a new chapter in the debate on the exceptions and limitations of copyright and the legal situation of persons with disabilities in intellectual property law, namely on access for people with print disabilities to copyright works. By limiting the rights of copyright holder's, people with print disabilities were given the right to access to works in accessible formats, which they did not have under any other previously applicable legal act.

2) Research question and methodology

After two years from the entry into force of the Marrakesh Treaty and one month before the application of the Regulation no. 2017/1563 and the Directive 2017/1564, the main question is whether these acts can in fact lead to the improvement of access to works for people with print disability, and strive to provide access to works as possessed by fully abled persons.

This paper will analyse these doubts from two viewpoints.

Firstly, through the prism of the aim of introducing the new acts for the benefit of persons with disabilities, which is not equality in possessing the access to copyright works, but only non-discrimination in this field. I will consider, whether and why non-discrimination and equality approach differs in the case of copyright, and whether equality in providing access to works for disabled persons will ever be possible, taking into account legal and technical obstacles.

Secondly, the analyse will be made from the perspective of the content of above mentioned acts, which reflects a compromise between the positions of environments

defending limited access to works and representing persons with disabilities. As a result of “fighting for rights” and not the effect of deliberate actions, the legal provisions of these acts do not address many important issues, like the obligation to enforce beneficiaries' rights in the event of improper performance of duties by entities authorized to perform the activities related to the achievement of the objectives of those acts. Moreover Marrakesh Treaty as well as EU acts leave the Member States a large scope of freedom in the implementation of their provisions, inter alia in relation to the determination of the reimbursement system related to the reproduction of work.

The paper will conclude with author's opinions aiming to prove that the indicated legal acts are important, but only the first step to improve the access for people with disabilities to copyright works.

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