

MINISTERIAL DECISION: ΥΠΠΟ/ΔΙΟΙΚ/98546

GOVERNMENT GAZETTE: B 2065/24 OCT 2007

TITLE: REPRODUCTION OF COPYRIGHTED WORK FOR THE BENEFIT OF THE BLIND AND THE DEAF-MUTE AND EXTENSION OF THE ARRANGEMENT TO OTHER CATEGORIES OF PEOPLE WITH DISABILITIES

THE MINISTER OF CULTURE:

Considering:

1. The provisions of:
 - a) article 81 of Law 3057/2002 "Amendment and supplementation of Law 2725/1999, settlement of matters of the Ministry of Culture and other provisions" (Government Gazette A 239), which added articles 28A and 28C to Law 2121/1993 "Copyright, related rights and cultural matters" (Government Gazette A 25) and amended article 52 of the same Law, which transposed article 5(3)(b) of Directive 2001/29 into Greek legislation,
 - b) Law 3184/2003 (Government Gazette A 228/26 Sep 2003), which ratified the Copyright Convention of the World Intellectual Property Organisation,
 - c) article 90 of the Code of Legislation on Government and Governmental Bodies, ratified by the first article of presidential decree 63/2005 (Government Gazette A 98),
 - d) presidential decree 191/2003 "Regulations of the Ministry of Culture" (Government Gazette A 146).
2. Document number 8595/12 Oct 2007 of the Hellenic Copyright Organisation.
3. The fact that the provisions hereof do not entail any expenditure to the State Budget, we hereby decide:

ARTICLE 1: PURPOSE AND SCOPE

Pursuant to article 28A of Law 2121/1993 (Government Gazette A 25/4 March 1993), the reproduction of a previously published work by a competent body referred to in article 2 shall be allowed and shall be a legitimate limitation of the property right of the author, provided that the work is reproduced in special forms and solely for the benefit of beneficiaries referred to in article 3, for uses which are directly related to the disability and are of a non-commercial nature, to the extent required by the specific disability and provided that the terms of application referred to in article 7 are complied with. The specific terms of application of this arrangement and any other necessary detail are determined hereby.

ARTICLE 2: COMPETENT BODIES

1. The bodies being competent to reproduce the work pursuant to article 28A of Law 2121/1993 and hereto shall be any non-profit organisation or association or union or other pertinent organisation, whose main mission is to provide specialised services related to the education and training or to the facilitation of education and training of the blind and the persons defined in article 3 (hereinafter referred to as "competent body"). Competent bodies include tertiary education establishments.

2. In case of doubt as to whether a body is entitled to proceed to the actions referred to in article 1 hereof, the Hellenic Copyright Organisation (HCO) shall make the final decision. The HCO shall maintain a list of all competent bodies.

ARTICLE 3: BENEFICIARIES

The limitation to the authors' property right of reproduction pursuant to article 28A of Law 2121/1993 shall apply to people with defective or reduced vision which cannot be corrected using corrective lenses to a degree that would be satisfactory for reading and, because of a disability, are unable to read a printed text in a conventional way or perceive the content of a work using their physical senses (hereinafter referred to as "beneficiaries").

ARTICLE 4: CATEGORIES OF WORKS FOR WHICH REPRODUCTION IS ALLOWED UNDER ARTICLE 28A

Any work of discourse or science, which cannot be perceived in its existing form by the beneficiaries, may be reproduced for their benefit in order to obtain a form that they can perceive. The limitation of this property right shall not apply to the source code of computer programmes.

ARTICLE 5: FORMS OF REPRODUCTION OF A WORK

The works whose reproduction is allowed hereby may take forms such as Braille Moon, Daisy, talking books and any other method solely designed to be used by the beneficiaries and responds to their special needs, to the extent required by the specific disability.

ARTICLE 6: PUBLISHERS' OBLIGATION TO PROVIDE FILES IN ELECTRONIC FORM

1. Publishers shall be obliged to deliver to the competent body in electronic form the files of the works to be reproduced pursuant to this decision and article 28A of Law 2121/1993, on condition that the work is kept in electronic form.
2. Works that may be delivered in electronic file include all educational books of primary and secondary education and mandatory books of tertiary education. For all other works, the publisher shall, if so requested, deliver to a competent body electronic files of works totalling up to 10% of their annual publishing production; such percentage does not include any educational books published, as referred to in the first sentence hereof. In the event that the publisher refuses to comply with this obligation, the percentage shall double.
3. The publisher shall, within thirty (30) days of the evidenced receipt of the request by the competent body, deliver thereto the electronic file of the requested work in forms including, but not limited to:
 - i) extensible mark-up language,
 - ii) hypertext mark-up language,
 - iii) Microsoft Word applications suite,
 - iv) American Standard Code for Information Interchange (ASCII),
 - v) Portable Document Format (PDF).

The file may be delivered by post, courier, email, file transfer protocol (ftp) or any other method of electronic file transfer.

4. Competent bodies shall be obliged to purchase one copy of the work to be reproduced, irrespective of the number of copies to be reproduced and subject to the limitations of article 7(6).
5. Competent bodies shall be obliged to notify the publisher of the number of copies of the work reproduced and of the form of such reproduction.

6. The HCO and the Association of Book Publishers shall keep a database with all competent bodies, the titles of works in electronic form held by each body and the special form in which documents have been reproduced. Competent bodies shall update the database on receipt of the files and reproduction.
7. In the event of change in purpose or dissolution, competent bodies shall destroy all electronic files in their possession by virtue hereof and report such destruction to the HCO and the Association of Book Publishers.

ARTICLE 7: TERMS OF APPLICATION

1. The present decision shall apply to legitimately published works and to their reproduction for uses of direct or indirect non-commercial use, directly related to the disability. In the event that the cost of the reproduced copy is incurred by beneficiaries, it will not exceed the reproduction cost.
2. The present shall not apply to works that are already marketed in forms specifically designed for the needs of beneficiaries.
3. The copy of the work reproduced pursuant to this decision shall mention the name of the author and the publisher, as well as the date of first publication, if such information is included in the work. The physical carrier of such copy shall also mention that the copy has been reproduced pursuant to article 28A of Law 2121/1993 and this decision and that any further reproduction in forms other than those defined in article 5 shall constitute an infringement of the copyright and shall incur the sanctions referred to in articles 65 et seq. of Law 2121/1993.
4. The text cannot be amended or changed without the authorisation of the author and the publisher, in relation to each one's rights. Such prohibition does not concern changes relating to layout and pagination, which are dictated by the need to convert the form of the work to serve the needs of beneficiaries. Competent bodies shall respect the copyright of the author in the reproduction of the work and the fulfilment of its purpose.
5. The application of the provisions hereof cannot be eliminated in contracts between the publisher and the author.
6. Copies reproduced on the basis hereof cannot be used for purposes other than those provided for hereby. Any person making use of such a file for purposes other than those provided for in article 1 hereof shall be liable pursuant to articles 65 et seq. of Law 2121/1993.
7. Competent bodies shall be liable to investigate the capacity of beneficiaries pursuant to article 3 hereof.

8. Competent bodies shall incur the principal's liability for any copyright infringements by third parties selected for the reproduction of their copies on the basis hereof.

ARTICLE 8: COURT PROTECTION

Save as otherwise stipulated in Law 2121/1993, any disputes arising from the non-application of the provisions hereof shall be resolved according to the injunction procedure under articles 682 et seq. of the Code of Civil Procedure.

ARTICLE 9: ENTRY INTO FORCE

The present shall enter into force on publication in the Government Gazette.

The present decision shall be published in the Government Gazette.

Athens, 12 October 2007