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ANNOTATION

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The monograph, prepared by the Center of Intellectual Property and Technology Transfer of the National Academy of Sciences of Ukraine, is setting the following objectives:

- Explore milestones of copyright and related rights development in Europe and impact on it by Council of Europe, WIPO and the European Union;

- Undertake research of copyright and related rights legislation which is harmonized in the EU; EU court decisions interpreting EU directives;

- Conduct study of the EU Member States legislation in the field of copyright and related rights, which is not harmonized in the EU. In particular — to examine legislation on private copying, use of phonograms published for commercial purposes, reprographical reproduction, protection of moral rights of authors, collective management of copyright and related rights;

- Examine means of protecting of intellectual property rights in the EU, including Directive 2004/48/EC of the enforcement of intellectual property rights, Regulation № 1383/2003 concerning customs action, practice of their application in the Member States and also the EU initiatives on criminal legal protection of the intellectual property rights;

- Undertake a comparative study of the EU law and law of Ukraine, as well as of non-harmonized legislation of the EU Member States and Ukraine's legislation — under which to prepare proposals for amendments of Ukrainian legislation.

The monograph is the continuation of publications on the topic of intellectual property rights of European countries, Ukraine and other NIS countries, prepared by the Center of Intellectual Property and Technology Transfer. (See bibliography on the Center's website www.nas.gov.ua/ciptt/en).

Comparing legislation of Ukraine and the EU, the Member State's legislation, it should be noted correspondence of the main provisions of national law to the EU law and Member State's law, which is due, mainly, to the impact on the legislation of the EU and Ukraine of the TRIPS Agreement, the WIPO treaties, as well as the harmonization of certain national acts with the EU law.

Main directions of the Ukrainian legislation improvement are dealing with (the corresponding full proposals can be found on pages 593–598).

Clarifying definitions in the field of copyright and related rights (in accordance with the Directives № 93/83/EEC, № 2001/29/EC, № 2006/115/EC):

- Implementation of the EU Court practice;

- Harmonization of terms of protection of related rights in accordance with the Directive 2011/77/EU;

— Introduction into the legislation of Ukraine the term of noncreative database with application of national legislation on unfair competition and on investment activities;

— Taking actions for resale right effective realisation; clarification of remuneration rates for the resale right, etc.;

— Taking into account the practice of application of Directive 2004/48/EC in the Member States;

— Taking into account practice of work of the customs authorities of the Member States; the introduction of the order of the release of goods suspected of infringing design rights, patents, supplementary or plant variety, from the suspension of customs control on provision of a security, etc.

As for the non-harmonized legislation of the EU Member States, it is appropriate:

— to settle activity of the collective rights management organizations in Ukraine, providing effective control from side of authors and government authorities for their activity, transparency of compensation distribution;

— to introduce effective control over the payment of fees for copying for personal use by manufacturers and importers;

— to develop practice of taking charges for reprographic reproduction;

— to improve mechanisms of moral rights providing;

— to settle the legal regime of use of non-creative photos by the means of Ukrainian legislation on information, etc.

It is matter of interest to take into account provisions of the draft European Copyright Code (Wittem Project), in particular with regard to the moral rights of authors and the rights of third parties, if the use of the work of art is controlled by technical means, etc.