

LEGAL ALERT

NEW LAW TO BLOCK PIRATE SITES

LAW NO. 82/2021, OF 30 NOVEMBER

A new law ([Law no. 82/2021](#)) was published on 30 November 2021 which governs the attribution of powers to the Inspectorate General of Cultural Activities (“IGAC”) for: (i) supervision, control and regulation, removal and blocking the access to content protected by copyright and related rights; and (ii) corresponding administrative procedure, including the obligations of right holders and intermediary network service providers (ISPs), within the scope of such procedure.

The new law classifies the following acts as unlawful access to content protected by copyright and related rights:

- In any way communicate, make available to the public or store protected content without the permission of the holders of the copyright and related rights;
- Providing services or means intended for use by third parties for the infringement of copyright and related rights, or which are intended to interfere with the normal and regular functioning of the market in relation to works and performances; or
- Providing services that aim to circumvent effective technological measures for the protection of copyright and related rights or information devices for electronic data management.

As a consequence of the verification of one of these situations and once notified by IGAC, the person responsible for the unlawful provision of the content in question has 48 hours to cease said unlawful provision and remove the service or content on the Internet.

If they fail to do so, the intermediary network service providers (ISPs) are notified to comply with IGAC's decisions to remove or disable access to a given uniform resource locator (URL), associated domain name system (DNS), or access to content made available by a given IP.

However, the person responsible for making the content unlawfully available shall not be notified, and notification shall be given immediately to the intermediary network service providers (ISPs) to remove or disable access to protected works or content in the following cases:

- Where the application of the 48-hour time limit would substantially reduce the usefulness of the removal decision or the prevention of access, because the provision of content occurs in real time and for a limited period; and
- When it is not possible to obtain the identity and contact details of the person responsible for making the content available.

In addition, the measures adopted in compliance with IGAC's decisions involving the removal or impediment of access to content made available illegally will remain in force:

- Until the termination of the infringing activity giving rise thereto, but in any event never for a period longer than 48 hours, where the application of the 48-hour period substantially reduces the usefulness of the removal order or prevention of access, in particular because the provision of the content occurs in real time and for a limited period of time;
- In the remaining cases, for a maximum period of one year, unless those who have a legal interest in the continued existence of the content online demonstrate that they have put an end to the infringing conduct; and
- In any case, until termination of the effects of the decision is ordered by IGAC itself, or by any competent judicial or prosecuting authority, without prejudice to such authority being able to order other measures to prevent access.

The law also provides the possibility for any interested party to request an extension of the effects of IGAC's decision, for an equal period of time, by demonstrating that the contents protected by copyright or related rights on the website or service in question continue to be made available.

It is expected that this law will have a very significant impact in the fight against the so-called “pirate sites” which provide access to movies, sporting events, and other audiovisual content without the permission of the rights holders.

Finally, the law will enter into force 60 days after its publication, *i.e.*, on 29 January 2022.

We remain at your disposal for any questions or further clarifications.

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