

Dobrev & Lyutskanov Law Firm participated in a webinar concerning the legal aspects of the creation and use of software

Dobrev & Lyutskanov Law Firm participated in a joint webinar of the Digital Economy and Tax Committees of the American Chamber of Commerce in Bulgaria. Within the scope of the webinar were discussed current problems of the creation and use of software – on one hand, the specific rules of Bulgarian law in the field of Intellectual property, and on the other – the tax regime of these relations and the need for further tax incentives for this activity. The Law Firm was represented by Attorney-at-Law Lyuben Todev, who presented an analysis of the issues of the protection of software applications and free licenses in compliance with Bulgarian law. You can find the presentation in Bulgarian language in the file attached hereto – **D&L Presentation AmCham Webinar 26-05-2020**

The regulations concerning IP rights over software in Bulgaria cover the requirements of EU law – but have several specifics, which should be considered when licensing software. As first consideration, software license in Bulgaria have a limited term under the law – no more than 10 years – and while this might not be a problem in usual situations, this limit creates problem when providing third-party licenses or software released under a free license. This also complicates situations where the right-holder is a foreign company, which has licensed its Bulgarian subsidiary/branch to issue licenses to customers in Bulgaria. Additional issues arise when the customer is a state authority – because Bulgarian law has a requirement for state authorities to acquire all of the author's rights over any software they order.

All of these issues have solutions and workarounds – the license agreements of companies should be adapted accordingly, to allow current license policies to continue functioning in line with Bulgarian law. Additionally, software can be protected also as trade secret or, in some cases, as an invention under a patent. However, these options are very situational and should be considered carefully.

For all relevant regimes – copyright protection, trade secrets and patents – Bulgarian law shall apply when the software is used in Bulgaria. Additionally, any software product protected abroad must meet the requirements of Bulgarian law – for instance, inventions must be patented in Bulgaria as well – to receive protection. Therefore, both for cross-border cases – which are the most typical for this type of IP – and deals between Bulgarian companies the specifics of Bulgarian law are a factor to be kept in mind at every time.