

COPYRIGHT CONTRACT LAW – CREATIVITY FOR SALE (JURIDICAL ASPECT)

Summary

In spite of its importance, law on copyright contracts has been developing very slowly and deprived of substantial formal incentives or coordination at the international level. The achieved degree of its development can be spotted only through analysis of particular national legislations, whereby the differences existing from country to country are not small. Consequently, there is no specific set of norms that could be considered as the European or universal standard in legal regulation of copyright contracts. The fact that the legislator of one country has advanced in this respect more than the legislator in some other country is mostly the result of a lively interest and engagement of concerned social groups. The most engaged are the associations of authors whose duty is to articulate, directly or through legal experts, the problems in functioning of author's contractual relationships, as well as to express their views on desirable and practically possible solutions to these problems. However, the process of development of law on copyright contracts is not possible without involvement of representatives of users of works i.e. representatives of cultural industry. When regulating civil law matters that tackle the conflicting interests of different social groups, the legislator has no choice but to resort to compromise solutions that, in addition, have to be well founded in actual legal and economic rules of both market economy and social justice.

Regarding the situation in Serbia, the Copyright and Related Rights Law of 2004 includes a number of specific norms applicable to copyright contracts, the sole function of which is to reinforce and protect the contractual position of the author. Consequently, one couldn't say that law in Serbia is apart from current trends in the world or that it doesn't comply with some international legal standards (which actually don't exist). The fact that the contractual position of authors in this country is still not favorable when analyzed from the practical standpoint, cannot be convincingly explained by major deficits in Copyright and Related Rights Law. The greatest responsibility for such a situation lays with the authors themselves and the judicial system.

Individual authors often lack the sense of responsibility when entering contracts. Furthermore, they are mostly unwilling to join their forces in form of competent associations that could be a serious negotiating party vis-a-vis the mighty cultural industry. On the other hand, our judicial system still lacks organization

and competence to deal efficiently with the sensitive copyright matters, which is very discouraging for the authors when having to seek protection of their rights before the court.

Future developments in Serbian copyright law will most probably result in decrease of protection of the bargaining and contractual position of the author, because of the tendency of the cultural industry to employ its growing strength and influence in order to achieve changes in copyright legislation, which would shift its nature more towards commercial law.