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V. LAW AS A REGULATOR OF SOCIAL RELATIONS: HISTORY, MODERNITY, DEVELOPMENT TRENDS



AN INTERNATIONAL LEGAL ASPECT OF COPYRIGHT PROTECTION

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Summary. The article analyzes the features of international copyright protection. Thus, we identified some problems existing in the area of international copyright regulation and examined some approaches to its resolution. The imperfection of certain approaches in copyright law allowed us to formulate proposals to further improvement of the copyright protection system.

Keywords: copyright; the country of origin of the work; the country where protection is claimed; the right of reproduction; right of distribution; right of rental; right of communication to the public.

In the context of the active development of digital technologies and intensive information exchange between entities located in different countries, the need for the formation of an effective system of international legal protection of copyright is becoming more acute. This system, which is based on the Berne Convention of 1886, was supplemented and concretized by other international treaties, the most important of which were the Universal Copyright Convention 1952, the WIPO Copyright Treaty and the TRIPS Agreement.

The Berne Convention established the basic principles of copyright protection – the principle of national regime, the principle of automatic protection and independence of protection, protection of the country of origin of a work, etc. At the same time, the Berne Convention establishes the minimum rights guaranteed to the author. More detailed regulation of copyright is a duty of the participating countries. As a result, with a seemingly similar system of copyright protection, different states have their own legal characteristics, which often play a decisive role in protecting the interests of copyright holders. So, the definition of authorship may differ from country to country – in some states the author is always an individual (a person) who has made a creative contribution to the creation of a work, in others it may be even organizations and companies [2, p. 10].

Berne Convention in Art. 5 (1) sets out the principle of national regime. According to it, works, the country of origin of which is a member state of the Berne Union, are protected in all other member countries on an equal basis with the works of their own citizens. In the provisions of the Berne Convention, such

conflict-of-law formulas of attachment are seen as the law of the state of origin of the work and the law of the country where protection is claimed [4].

The country of origin of a work, based on Article 5 (4) of the Berne Convention, is, as a general rule, the country of the first publication of the work. Protection in the country of origin is regulated by the legislation of this country: for example, if a work was published in Russia by a Russian author, no foreign element is involved in such a legal relationship. Naturally, such relations will be regulated exclusively by national norms. International legal norms will apply when resolving conflicts arising with the participation of a foreign element. So, the Civil Code of the Russian Federation in Art. 1186 provides that these include situations when the subject of copyright is a foreign person or the object of law is located outside the Russian Federation, as well as other cases (for example, if copyright infringement occurred outside the Russian Federation) [3].

The Berne Convention provides for a mandatory minimum of author's rights, which each member state must recognize in its territory, but the specificity of protection varies from country to country. Thus, since the duration of exclusive rights differs in individual countries, it is possible to have a situation when is protected in one country and at the same time is part of the public domain in another.

In case of violation of rights, the author applies to court in the country where the rights were violated. However, the author may be interested in protecting the rights in the territory of another country, for example, if in another country there are assets belonging to the defendant, and from these assets the plaintiff can compensate for the losses incurred.

With the development of the digital environment, the international community is faced with the need to improve the mechanism of international legal protection of copyright, its adaptation to new realities. So that was adopted a special agreement - the WIPO Copyright Treaty.

International copyright protection is also governed by the Agreement on Trade-Related Aspects of Intellectual Property Rights. This agreement does not contain any novelties regarding the already existing model of copyright protection, but it deviates from the provisions of the Berne Convention – it allows states not to grant so-called moral rights to authors.

Nevertheless, with all the multitude of international legal acts devoted to the protection of copyright, the system of international cooperation in the field of copyright is not very effective, leaving a rather large number of gaps and often giving priority to national economic interests to the detriment of the interests of authors and copyright holders.

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