

SECTION 35: ЮРИСПРУДЕНЦІЯ

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GENERAL PRINCIPLES OF INTERNATIONAL COPYRIGHT PROTECTION

Abstract. The text explores the key principles of international copyright protection and their role in the global system for safeguarding creative rights. The principle of independence of protection means that copyright protection may vary in scope and duration across different countries, depending on their national legislation. International conventions establish minimum standards of protection, which include both economic and moral rights of authors, contributing to the harmonization of national laws. The principle of reciprocity encourages countries to enhance their level of copyright protection by offering benefits to authors from states with equivalent protection levels. The system of international copyright protection aims to strike a balance between the interests of authors and the public, supporting the development of creativity and cultural exchange in a global context.

Key Words: copyright, international protection, independence of protection, national treatment, minimum standards, principle of reciprocity, automatic protection, economic rights, moral rights, international conventions, legal harmonization, civil law, protection of creative rights.

Purpose and Objectives of the Study. To examine the concept and significance of copyright in the international context. To achieve this goal, the following objectives must be addressed: to study the main principles of international copyright protection; to analyze the interaction between the principles of independence of protection, minimum standards, and reciprocity in international copyright protection; to consider the principles of copyright as a part of civil law.

General Principles of International Copyright Protection. Copyright belongs to fundamental human rights; it guarantees the protection of human creations from encroachment and theft. Humans are endowed by nature with the capacity for critical thinking, analysis, and creative activity, and therefore can invent and create new technologies, develop designs and projects, and create works of art.

The right to protect the results of creative and intellectual activity is called property rights. In private international law, two categories of intellectual property rights are distinguished. The first includes copyright and related rights, and the second – industrial property rights [4, p. 126].

Intellectual property, similar to property rights, belongs to the sphere of exclusive rights that require an indefinite circle of persons to respect the rights of the owner. Violation of the rights of authors, inventors, or performers entails civil, administrative, and sometimes criminal liability. At the same time, the rules and grounds for bringing to liability are regulated by the legislation of each particular state. Considering the specificity of intellectual property and the dynamics of its development at the global level, an objective need arose for the institutionalization of an international system for the protection of copyright and related rights through the adoption of relevant international legal acts. International protection of intellectual property represents an integrated system encompassing legislative regulation, international conventions, as well as the activities of international organizations designed to ensure effective protection of intellectual property rights.

Copyright protection became possible at the international level thanks to the adoption of a series of international acts. In particular, the Universal Copyright Convention of September 6, 1952 [3], which concerns copyrights to literary, scientific, and artistic works, such as: written, musical, dramatic and cinematographic works, works of painting, graphics, and sculpture [5].

The Berne Convention of July 24, 1971 [1], which applies to copyright objects relating to literary and artistic films. The signatory countries of these two conventions formed an international community that committed to protecting the copyrights of their citizens to the products of their intellectual property.

At the regional level, EU Directive 2019/790 of the European Parliament and of the Council of April 17, 2019 on copyright and related rights in the Digital Single Market [2] has taken its place of honor, regulating the use of works in the digital environment and establishing rules regarding the liability of online platforms for posting content protected by copyright.

It is worth noting that when determining the subject of protection, the territorial principle is applied – priority is given to the state in which the work was first published. As for the term of copyright protection, it covers the period of the author's life and 50 years after their death. For certain objects, such as translations, cinematographic works,

photographs, and others, this term may be shortened, but member countries are allowed to establish longer protection periods. According to paragraph 8 of Article 2 of the Convention Establishing the World Intellectual Property Organization, of which Ukraine is also a member, the term "intellectual property" means rights to literary, artistic, and scientific works; performances of artists, sound recordings, radio and television broadcasts; inventions in all fields of activity; scientific discoveries; industrial designs; trademarks, service marks, firm names and commercial designations; as well as rights to protection against unfair competition and other rights related to intellectual activity in the industrial, scientific, literary, and artistic spheres.

It can be said that the protection of intellectual property rights in international relations is particularly effective when combined with the peculiarities of national legal regulation.

The development of copyright protection in private international law is largely related to the conclusion of treaties aimed at protecting intellectual property beyond the country of its creation. Although such treaties do not always fully achieve their purpose, their conclusion is considered effective. Among the main types of treaties are: agreements on mutual protection of intellectual property objects, treaties on international classifications, and treaties on establishing protection standards. Resolution of conflict-of-laws issues is carried out according to the law of the state where the rights are registered (*lex loci contractus*). In case of dispute, the parties may choose jurisdiction by agreement. Foreign court decisions are recognized only when they are adopted or recognized in the respective state.

In 1952 in Geneva, the Universal Copyright Convention was adopted, which entered into force in September 1955, becoming an important milestone in the formation of an international system for copyright protection. The basic principle of the Convention is national treatment, which guarantees an equal level of protection for both national and foreign rights holders. The Convention provides for a set of substantive legal norms that establish minimum standards for copyright protection among member states. In particular, it establishes the right to translate works and defines a minimum copyright term of 25 years. These provisions contributed to the harmonization of legislation in different countries and laid the foundations for further development of international cooperation in the field of intellectual property.

The Strasbourg Agreement concerning the International Patent Classification, concluded in 1971, can also be included among the main regulatory documents for regulating relations concerning intellectual property. The key achievement of the agreement is the creation of the International Patent Classification. The International Patent Classification plays a significant role in searching patent documents used in researching the state of the art [6, p. 5].

An important place among international acts in the field of copyright protection in private law is occupied by the Paris Convention for the Protection of Industrial Property, adopted in 1883. Its main purpose is to ensure legal protection of the results of intellectual activity to improve product quality. The provisions of the Convention extend to objects of industrial property, in particular inventions, industrial designs, trademarks, firm names, geographical indications, utility models, and measures to combat unfair competition. In addition, the Paris Convention also provides for other

norms regulating legal relations in the field of protection of various objects of industrial property, such as industrial designs, commercial names, trademarks, and geographical indications [7].

In the modern world, where information and creativity cross national borders with incredible ease, international copyright protection acquires critical importance. It is quite important for supporting innovation, cultural exchange, and economic development. Without clear international agreements, authors and rights holders would face difficulties in protecting their works beyond national jurisdiction. That is why the key principles underlying the international copyright protection system are extremely important.

The first and fundamental principle is national treatment. This principle, enshrined in many international conventions, particularly in the Berne Convention for the Protection of Literary and Artistic Works, stipulates that each contracting state grants authors from other contracting states the same protection it provides to its own citizens regarding their works. In other words, foreign authors enjoy the same rights and means of protection as national authors in the country where their works are used. This principle eliminates discrimination based on citizenship and ensures equal conditions for creators from different countries. Thus, according to the Berne Convention, a foreign author may enjoy an even higher level of protection of their rights than an author who is a citizen of a member country [8, p. 56].

The second important principle is automatic protection. According to this principle, copyright protection arises automatically from the moment of creation of a work and does not require any formal registration or deposit. This means that an author does not need to take any action to obtain protection in the countries party to the relevant international treaties. This approach significantly simplifies the process of protecting rights, especially in the context of global dissemination of works, where formal procedures in each country would be extremely burdensome.

The third key principle is independence of protection. This principle means that copyright protection for a work obtained in one country is independent of the protection obtained in another country. In other words, the term of protection, scope of rights, and means of protection may differ in different countries according to their national legislation, even if the work is protected by international conventions. This reflects the sovereignty of each state in determining the level of copyright protection within its territory.

The fourth important aspect is minimum standards of protection. International conventions establish a certain minimum level of rights that contracting states are obligated to grant to authors. These standards include basic economic rights, such as the right of reproduction, translation, public performance, broadcasting, etc., as well as moral rights, such as the right of authorship and the right to the integrity of the work. The establishment of minimum standards promotes harmonization of legislation in different countries and ensures a certain level of predictability for authors and rights holders.

Finally, the principle of reciprocity plays an important role in international copyright protection. Although national treatment is the foundation, some international agreements may provide for granting certain advantages to authors from countries that

ensure a similar level of protection for authors from other contracting states. This principle encourages countries to raise the level of copyright protection.

Conclusions. In summary, the basic principles of international copyright protection – national treatment, automatic protection, independence of protection, minimum standards, and the principle of reciprocity – form a complex but vital system. They aim to ensure a fair balance between the interests of authors and society, promoting the development of creativity and cultural exchange on a global scale. In a world constantly changing under the influence of technological progress, further strengthening and adaptation of these principles remains a key task for the international community.

Copyright as part of civil law is based on the following principles: legal equality of subjects of law; freedom of contract; freedom of entrepreneurial activity; freedom of the individual; incorporation in copyright norms of the latest achievements in the field of global legal thought and universally recognized provisions developed by the world community; comprehensive protection of property regardless of its forms and types; respect for the rights and interests of other persons and public morality [9].

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