



do not enjoy protection from the provisions of the Copyright Law.

Further, by definition of the law, author of the copyrighted work is considered every natural person or group of natural persons. Authors of copyrighted work are vested with economic and moral rights. The no-formality rule is asserted by the legislator, meaning that authors benefit automatically from copyright due to the sole creation of the work. In any case, the work can be registered with the Copyright Directorate.

The author enjoys exclusive economic rights and moral rights, the latter deemed to embody the right of an author or other creative artist to protect the integrity and ownership of their works and therefore are not alienable, cannot be waived and last forever. The Copyright Law provides a distinction in the treatment of the moral and economic rights in terms of their duration. Whilst moral rights are perpetual, meaning that they survive the author (through inheritance), the economic rights span the author's life and expire 70 years after his death.

The exclusive economic rights vested on the author grants to the later the right to enjoy, authorize or halt the use of the original work and copies. In particular, such rights include the following:

- i) the right to reproduce;
- ii) the right to distribute;
- iii) the right of communication of the work to the public;
- iv) the right to create derivative works.

Any use of the original work or a copy of the same, without the approval of the author, his heir, or author's legal representative constitutes copyright infringement. The legislator rules that that the copyright per se cannot constitute object of an enforcement procedure, instead subject of such procedure can be only the economic gain obtained from the use of the work.

The Copyright Law pays considerable attention to the transfer of the economic rights vested in the author. By way of contract, the author may on exclusive or non-exclusive basis transfer the economic rights over the work to third persons against a compensation that according to the legislator should be proportional to the profits obtained from the exploitation of the work. Should the parties failed to include compensation for the work or the same is not proportionate vis-à-vis the profits of the other party, the author can address the competent authorities and ask them to resolve on the compensation.

The Copyright Law disciplines the various elements of the contracts for the transfer of the economic rights including the mandate and publishing contracts as well as the rental ones.

The rights vested in the authors can be administered personally, or through legal representative, by the author for each individual work or collectively by non-for profits organizations established in pursuance with the provisions of the law. In addition to the foregoing, copyright the legislator requires mandatory administration. In such rights are included the right to re-broadcast the audiovisual works, the right to rent musical works/records for authors, performers and phonogram producers, etc.

Copyright infringement qualifies for administrative and criminal sanctions as well as civil liabilities. In the ambit of the court procedures, the author/right holder can ask for the halting the infringement, damage relief, destruction of unlawful copies and means used to reproduce the same, as well as publication of the court decision with the expenses of the infringer.

The collective administration of copyrights is carried out by agencies [non-for profit organizations] duly licensed by the Ministry of Culture. The license is granted for a duration of 3 years and is renewable. Based on the provision of the law, the Ministry licenses one agency for each category of right holders. Such agency should have obtained the consent for the copyrights administration from the majority of the right holders of that specific category and should have in place the largest number of contracts with fellow foreign agencies.

The Copyright Law establishes that the agencies representing the different categories of right holders, should agree and therefore appoint one agency that will be entrusted with the collection of the fees for the use of the copyright works. Should the agencies fail to reach an agreement among them within a 30 days term from the entrance into force of the fees, to the National Copyright Council will be the competent authority to determine the agency to collect the fees for all categories of right holders.

The main administrative bodies, apart the ministry responsible for copyright protection [actually the Ministry of Culture], are the National Copyright Council and the Copyright Directorate, both bodies depending on the previously mentioned ministry.

Among the responsibilities vested with the National Copyright Council are: (i) the approval of the methodology

and the measure of the fees; (ii) determination of criteria and procedures for works of national values, etc.

As for the Copyright Directorate, one of the major tasks remains the surveillance of the activities of the agencies for the collective administration of copyrights as well as proposing legal acts on copyright protection, etc.

The Copyright Law has aimed to achieve approximation with the EU Directives and in this framework has improved the regulation of several issues that have been object of discussion among the practitioners and right holders.

As a conclusion, we may say that the provisions of law leave open different question marks, but the biggest one to say or the more obvious remains the following: will the enforcement of this law provisions be possible?



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