COPYRIGHT AS A RIGHT OF INFORMATION CHARACTER: NO NEED FOR THOR OR RAGNAROK

Shahin Mammadrzali
(*mammadrzali@gmail.com*)
Ph.D Candidate
(Baku State University)

....to the honorable and sweet community of UN ILFP 2019

Abstract

The article is dedicated to the current state of links between copyright and information rights. Although copyright and information rights are regulated in different manners, both of them have a common feature of information. Historical perspectives prove that the establishment of copyright rules used to aim the protection of intellectual property but not to limit freedom of information. On the other hand, information rights are not absolute rights and enhancing them does not mean to zero the role of copyright law. Copyright contains elements of information and it is the same for freedom of information - the cornerstone of modern information rights. That is to say, traditional notion of copyright is not in conflict with information rights. Copyright is also an individual human right and unlike the "conflict" claims, there is not an extraordinary clash between copyright and information rights. All can live peacefully in ICT age with no need to arrange Rognarok for co-habitation of copyright with information rights. And we do not need Thor to save us. Legal fundamentals of information circulation cover both information rights and copyright. Bearing this in mind, we can set up certain system of restrictions for the enjoyment of information rights and copyright in order to coordinate information circulation in proper manner. Thus, the current research overviews copyright as the subject matter of information law field as well as puts it within the realm of information rights and freedoms.

Keywords: *human rights, copyright, freedom of expression, information technologies, media freedom, information rights, information society, restriction, public order, legal protection, information law, intellectual property, moral rights, international law, harmonization.*

Introduction

Comprehensive development of public sectors, formation of information society and emerging global nature of world economy have led to significant changes in human rights fields as well as in other areas of law. Main trends in the field of human rights are characterized by issues such as the widespread use of ICTs and systematization of information rights, the emergence of new views to global economic crisis and related economic-social rights, sustainable development and increasing emphasis on environmental rights. One may agree that any development in the field of human rights occurs as a result of information sharing, accompanied by conflicting ideas and critical discussions. One of such dilemmas in the present system of creative freedom, information rights, privacy and cultural rights is to protect copyright and bring economic interests of authors in line with information law norms. The very reason for the problem is that participants of information exchange do not always take into account authors and the exclusive rights of those in transmission of various information types. Information is the object of information circulation what can found in written, oral, electronic or other forms. For example, a young scientist who has finalized research in organic chemistry publishes a book - a book that is based on his scientific findings. Of course, as the author of this book, he aims to sell his creative product and presents it to wide audience. At the same time, any of readers who bought a copy of the book may try to make illegal copies and repeatedly sell it. From the point of information sharing, this action does not cause problems. Because, at the end of the day scientific novelties

reach readers and everyone becomes aware of the latest academic achievements of young scientist. However, the person involved in illegal sale undermines exclusive economic interest of the original author of the book - the economic side of the copyright. In the case of illegal dissemination and sale, the author of original book cannot earn all the proceeds from the sale of his book and some of income goes illegal businessmen. It may even be the case that any other researcher would try to make decorative changes to the original ideas contained in that book, willing to own scientific novelties which originally do not belong to him. Such a person, in turn, infringes the moral interests of the original author - that is, the moral side of the copyright. The moral side of copyright also causes some financial compensation. Yet, to determine certain payment for non-material damage is quite tough. In any case, indeed, this type of damage is not measured by the amount of material loss but the fact is that copyright infringement is far away from social moral norms as well as academic ethics.

It should be noted that the violations mentioned in our example are more frequent as a result of digital globalization and the broad use of information technologies, the Internet in particular. It is not only scientists, but also international justice mechanisms that express their concern about the Internet as a new obstacle teasing copyright and destroying peace with information rights. Being the prominent high tribune for human rights protection, the European Court of Human Rights has started to deal with this problem since 2013, when it revised the principle of proportionality in terms of punishment for copyright infringement in “Ashby Donald and Others v. France”[10] and “The Pirate Bay” [11] cases. The subject matters of both cases were about copyright claims for online information dissemination and possible protection from that claims on the basis of freedom of expression and information.

It is for a long time that researchers have proposed the term "digital property rights" and have emphasized the need for serious protection of intellectual property rights in cyberspace [26]. The formation of single global cyberspace promotes universal dissemination of information. New technologies make possible to communicate across countries, regions and even across continents. Usually, we support this acceleration as a positive process from the point of freedom of information and information rights of people. But we seem to be reluctant to see the other side of the coin. A single information space with no borders raises increased number of copyright infringements too. Now a book published in far Australia can be freely (but illegally) translated and sold in other languages in the European market without author’s permission, a music piece composed in Latin America can be illegally changed or renewed in Central Asia without warning the original composer, etc. Given these reasons, I can agree with A.Mambi who suggests that there is a strong need for effective regulation of the ICT institute in global scale what incorporates many intellectual property challenges [1, 197].

Roots of challenges in ICT age

The most common violation of copyright that is closest to our daily lives is when copies of books or parts of them are released without author's knowledge or someone shares scanned books on social media with no permission. Persons wishing to share information and obtain new information do not create problems with information rights at this time, referring to the principle of information freedom. However, those individuals forget that they violate intellectual property protection preventing the author from earning profits from the sale of his book and recognizing him as the author. In addition to the mentioned examples, there are several other types of copyright infringement in today’s life. By summarizing the negative experience in this regard, I can classify the directions of copyright infringements in modern information society as following:

- Violation of terms of copyright agreement;
- Plagiarism cases. All kinds of plagiarism mean theft, that is, illegally using products of creativity;

- Illegal production of new copies (including translation), electronic and audio versions of creative samples;
- Complete or partial modification or updating of creative works without warning original author;
- Assignment of information, e.g. examples of folklore to a specific person, etc.

These examples illustrate how sensitive copyright is in today's world and how easy it is to violate copyright. These problems imply more serious and more flexible protection of creative rights. However, in order to fulfil this requirement, it is important to scrutinize copyright and determine whether these rights relate to other human rights in the field of information. In general, there should not be any separation of copyright from other human rights. Researchers also note that, in fact, copyright can be included in the list of individual human rights that belong to everyone [29, 8-11]. However, we must bear in mind that copyright and other human rights, both at the level of international and national law, have not gone the same way of historical development and formation. If to look at the history of national legislation of both the Anglo-Saxon and Continental Law systems, one can see that information rights are given more space than copyright. However, this fact should not diminish the importance of copyright. Of course, over the course of various historical periods, legal documents on intellectual property and authors' interest in their creative products had also been set up. Nevertheless, copyright and intellectual property used to be considered only in the context of traditional property, not as human rights. Only recently copyright and other related rights have begun to be analysed in the framework of human rights. I can relate the same ideas to the historical development of international law norms on related issues. For many years before and after World War II, international human rights instruments had not paid enough attention to copyright as an individual human right. The International Covenant on Economic, Social and Cultural Rights adopted by the United Nations has given authors the right to protect their interests in publication, but did not recognize copyright directly as an individual right. More recently, the Protocol No. 1 of the European Convention on Human Rights covers copyright under the aegis of intellectual property and considers it as a type of the right to property [21, 13]. The EU Charter of Fundamental Rights also recognizes intellectual property as a form of ownership in Article 17 but does not refer to it in an open and independent manner.

Moreover, copyright has been linked to the creation of modern media, freedom of expression and the press, both in terms of theoretical and historical development. Looking at European law history, copyright are likely to be found in medieval Venice trade statutes, as well as in English legislation due to the printing press brought to the UK in the 16th century [4, 52]. In this period, copyright rules were used to weaken the governmental monopoly on information and media. In Middle Ages printing business in Europe was severely censored and there was a special permission allowing publication of books. Proceeds from the sale and distribution of books used to reach publishing houses, but not authors. Authors did not have freedom to sign contracts and publish books together with printing houses. These limits were very helpful to governments to minimize publications and prevent some of authors who were critical or too much innovative. Yet, the tendency had been met with dissatisfaction by creative people who were on losing their material income and motivation. Authors opposing censorship and the monopoly began the struggle for the recognition of their exclusive material and moral rights. In this struggle, authors gradually won and weakened monopoly control over creative products and information as well as gained exclusive rights. However, it is interesting that the historical development towards the end of middle Ages has separated information rights and copyright in the information circulation. Copyright became a subject of civil law as an element of intellectual property. The primary purpose of copyright was to ensure freedom of information and freedom of expression, but it has quickly fallen victim to individual economic interests. As a result, instead of the generally ac-

cepted human rights norms related to copyright, complex and multilateral legal mechanisms have been established to regulate copyright.

Conceptualizing copyright as a human right

Human rights have a sufficiently complex structure and system as they cover all individual and social aspects of our lives. In the field of international law, organizations also have different approaches to this system. For example, the Universal Declaration of Human Rights adopted by the United Nations as well as the 1966 Pacts classifies civil, political, economic, cultural, etc. groups separately. The European Convention on Human Rights defines human rights in a unified list, while its Additional Protocols enshrine property rights, education, freedom of movement, etc. Different classifications are also offered in legal literature for a more in-depth study and investigation of human rights. In my view, given the multidimensional impact of information technology and especially the Internet on all human rights, I can also propose a new classification of human rights based on information criteria:

a) Information rights - are the most active rights and freedoms used in information circulation. For example, access to information, right to disseminate information, right to anonymity, digital rights, etc.

b) Human rights of information character - are rights and freedoms that contain information elements. For example, intellectual property rights, right to education, freedom of religion, right to testify and so on.

c) Other rights - although these rights are not widely used in information circulation, they can be referenced to specific information matters. For example, prohibition of torture and inhuman treatment, at first glance, has nothing to do with information. However, it may be the case that video-recording acts of torture, taking photographs and transmission of such information to public would mean information circulation promoting torture.

In the light of provided classification I may claim that human rights in information field what constitutes the subject matter of information law field are not limited to freedom of information or freedom of expression only. Information rights include all rights related to the movement, circulation and development of information (or data). In my opinion, copyright that provides new information to public and acknowledges relevant exclusive rights of authors also falls under the framework of human rights with information character. This approach converts copyright with other rights in information society and creates a significant basis for possible harmonization. In this regard, circulation of information connects many rights: education, media rights, electronic rights, cyber security, privacy, medical rights and so on. These examples show how copyright may challenge in different ways with not only information rights, but also other human rights. Of course, it is possible to analyse each of these connections in individual studies. For example, the relationship between the right to education and copyright is about free use of educational materials. Copyright protects direct or inalienable rights of a person or persons who are creators of teaching materials. From the perspective of copyright, it is necessary to get permission from author to make copies of the educational materials, make some additions to it, scan it or send it in electronic format. On the other hand, it is a long and tedious process to get permission from the author every time when you need to copy or work on a study material in different countries and regions of the world. From a purely educational point of view, information for education and research should be freely and independently available. Conversely, copyright is eager to the absolute protection of authors' moral as well as materials interests. Thus, significant challenge arises between education and copyright in terms of human rights regulations.

On the other hand, violations of information rights have a wider meaning. Violation of this type of rights restricts the privacy of both individuals and subjects of public activities, creating problems in information transparency. At the same time, direct and indirect participation in the

legislative and management system becomes impossible and research is weakened. In addition, it should be noted that the law on information rights does not specifically address the issues of liability for such violations. In our opinion, the existing uncertainty on the punishment for information rights violations and related liability issues also has a negative impact on copyright protection in the information space. For example, most of national legal systems still do not entail punishment of Internet companies or intermediaries for information piracy. Nevertheless, scholars acknowledge that uncontrolled electronic dissemination of materials puts information piracy as growing danger against intellectual property [31, 159]. As such, the works can be easily copied and distributed on the Internet, thus facilitating the creative exploitation of authors. In the light of this as well as the qualitatively new expansion of innovation in the context of globalization, there is a certain confrontation between copyright and information rights. Since most of the scientific literature and art works are publicly available on the Internet, most of the offenses are also related to copyright infringement online. Additionally, there are specific types of digital properties such as databases, profiles, web-pages that are information means but also should be protected by updated intellectual property regulations [17].

The rules of copyright claims need a balanced approach for not to be misused. The idea of expanding the scope of copyright protection and increasing the number of offenses in this area can be seen as a tool for censorship over information rights. In this regard, Charles Swan, an expert on related matters, says in the well-known British newspaper "The Guardian" that copyright can be regarded as interference with freedom of expression and information rights [32]. One can recognize the dangers of limiting information rights in light of trends in public life, especially in information society. Thus, information rights ensure citizens' participation in public and state activities as well as ensure free movement of ideas. On the other hand, information rights create conditions for both personal and collective development and enforce human rights in economic, political, and cultural spheres. Therefore, copyright limitations should not smash the importance of information rights and a fair balance between them needs to be established.

Harmonization of copyright and information rights

There are different ways of how there can be built life-long friendship between copyright and information rights. One key term for harmonization is creative activity. Creative activity is a concept that combines rights of authors as well as information rights of society. Authors' rights over their creative products and results are not purely material, and are not merely about earning economic income. The author has a moral connection with his own creative product. For example, it is a moral right for a scientist to be recognized as the author of a book where he published research results. It means that when talking about copyright as one of the main forms of ownership, it is not enough to consider only material income, sale of creative products, transfer of copyright on a paid contract, etc. In other words, an author's scientific or artistic work is a form of expression of that person's thoughts. The author creates new information and he is always glad to notice that his work is widely disseminated in public. Thus, the moral rights of authors coincide with the moral aspects of information rights. Information rights and freedoms take their origin from freedom of expression and information. Consequently, the restrictions on the exercise of freedom of expression are equally applicable to information rights and freedoms. International community has already established several criteria for imposing restrictions on freedom of expression and we can use them for harmonization:

a) Restrictions must be defined by law;

b) Scope of restrictions must be proportionate to possible threats;

c) Restrictions will be necessary in democratic society, namely, to ensure national security, public order, territorial integrity, crime prevention, protection of health or public morals, protection of the rights and interests of others.

The existence of restrictions on information rights and freedoms proves that these rights are not absolute rights. In my view, a deeper theoretical analysis of the latter issue is needed. A copyright limitation can be adjusted to meet all this 3 criteria. E.g. protection of copyright is established by law. On the other hand, copyright are based on democratic values such as human rights. Thus, the limitation of information rights under copyright is necessary in a democratic society and essential for the protection of rights of others. This analysis proves the legal and logical possibility of fair justification while restricting information rights on the basis of copyright. And conversely, the above-mentioned limitation principles can also be attributed to copyright. It means that copyright can also be restricted on the basis of information rights. As such, copyright should not be regarded as absolute rights and may be restricted by law when it is essential to a democratic society, based on public order and information rights of others.

These retail approaches and gaps in international law have adversely affected the national legal regulation process. For this reason, different ways are currently being sought to address the contradictions of information freedom and copyright in national legal practice, and various restrictions on the application of information and intellectual property rights are applied. The general tendency in this area is to identify an exhaustive list of examples and forms that are not protected by copyright but related to creative activity. The aim is to identify ways of use that are not covered by copyright claims. In my view, methods and creative activities that are not protected by copyright may be regarded as a limitation on copyright. Many European researchers justify this approach. They emphasize the civil-economic aspect of copyright, highlighting that these rights also apply to natural rights and it is important that the limitations imposed on them are analyzed as narrow as possible [27, 171].

National law in Germany and France

In general, none of European states has not yet achieved a fully systematic and well-developed approach to the interrelation between copyright and information rights. Thus, there are significant differences among national legislatures and their individual views on intellectual property matters. Despite this fact, I think, German and French national law is quite essential to review as both of them contain long-standing history of legislation towards harmonization of copyright with information rights and freedoms. It has been long time that various experts investigating this area make very different suggestions for harmonizing legislation and regulating the relationship between copyright and other human rights [22, 150-170]. However, these proposals are valid on specific issues and do not solve the common problem at one time. Among experts, E.Barendt points out the possible defense under freedom of speech against the existence of copyright infringement and that it includes both copyright and information rights [5, 254]. However, in my opinion, such a simple solution to the problem and the creation of a new hand-made "creative property" does not always harmonize information rights and copyright. In EU level, almost identical restrictions are reflected in all European national copyright laws. Nevertheless, these identities and similarities are often attributed to limitations and exceptions to copyright. The EU legislation in relevant field requires harmonization of national norms of all member states. However, it should be noted that national legislation in Europe does not overlap in the area of copyright regulation because it reflects local conditions and peculiarities. According to Guibault, exceptions and restrictions on copyright are for the one single and unified purpose - to give space for information rights and freedom of expression [8, 22-27]. I think it is possible to agree with this consideration. Indeed, restrictions on copyright protection serve to ensure freedom of information and freedom of expression. For example, copyright exceptions include purposes of criticism, satire, personal use, quotation, scientific research, archival purposes, use in art, and so on. These constraints often coincide with the requirements of information rights and freedoms and the concept of fair use in creative ways.

The position of German lawyers in the proposals for the mutual influence of information and copyrights, as well as the mutual restriction on each of these two groups, is of particular in-

terest. Their position reflects a more serious view of copyright, often based on the concepts of a continental legal system. In this sense, the role of the *"Urheberrecht Kommentar"* - the book of copyright manual issued by German lawyers for the entire European legal system is undeniable. It is interesting to note that the book examines possibilities that restrictions on freedom of expression can be abused by copyright protectors [33, 97]. The German lawyers have also made a significant contribution to the issue of converting copyright and information rights at the level of national legislation. Although it is not a direct constitutional provision in Germany, it has long been recognized that national courts have the role of precedent law and doctrine as a tool for constitutional provision of copyright [24, 53-56]. According to German legal doctrine, material and moral aspects of copyright are analyzed separately. The moral rights that are inherent in creative work and which are created by people are an integral part of copyright. Moral rights, which are part of the copyright, are related to articles 1 (1) and 2 (1) of the German Federal Constitution (Grundgesetz) [15]. Economic aspects of copyright are protected by Article 14 (1). Article 14 (1) provides for the protection of private property within the limits prescribed by law. Article 14 (2) of the Constitution states that property rights have a social function, thus limiting the protection of copyright. In several of these cases, the German Federal Constitution (Bundesverfassungsgericht) has sought to determine the limits of copyright protection. It is interesting that the Federal Court has recognized that in certain circumstances, Article 14 would cause excessive copyright protection and open the way for a monopoly. Therefore, although the Court does not directly name information rights, the need to establish a serious balance between public interest and the need for copyright protection is quite clear. The basis for such a serious approach, chosen by the courts for intellectual property, is also reflected in the doctrine of law. In this sense, a number of German researchers point to the need to limit the scope of copyright protection. E.g. Leinemann notes that the tendency to protect copyright evolves contrary to historical considerations [24, 163-164]. Thus, while all property rights should be applied in accordance with the ideas of social welfare, the scope of copyright and safeguarding criteria are ever expanding. Article 5 of the German Constitution also plays an important role in the constitutional provision of copyright. Although the article is generally dedicated to freedom of thought and expression, it also contains limitations. An important point is that by recognizing freedom of expression and information, Article 5 recognizes both "creative freedom" and "freedom of research." However, the German Constitution directly limits the scope of the author's economic property rights. The constitutional norms regarding copyright are reinforced by specific laws in Germany. Currently, Act on Copyright and Related Rights of 1965 is the main law that protects and regulates copyright in the country [18]. The initial articles of the law define copyright content and examples of the creative activity that these rights cover. The interesting thing is that the law separates copyright relations regarding to use of work and to earn revenue from the work. In the light of ICT development, additions I and II to this law were made in 2007 and 2003 on the regulation of copyright in information society [34].

Among others, France has paid special attention to regulating copyright and information rights too. Some of French researchers have interpreted copyright as a new type of property link over existing property. Bernard Edelman, as one of them, considered that the property on the product of creativity was based on belonging of the physical property that had already exists [6, 38]. In general, I can also agree with the French author. From the point of modern law, Edelman, when speaking of intellectual property, tries to define the moral link – the feeling of being an author, the creative right that binds the author to that physical property, namely the copyright on traditional physical property. It is worth noting that this concept has also manifested itself in the history of French copyright law. In the history of France, copyright protection is closely linked to historical information freedoms. Thus, the printing work in France began in the year 1470 at the time of the printing business in Europe, but for a long time this activity was under severe state censorship [22, 114-142]. The main purpose of censorship was to prevent the release of infor-

mation to the public at that time, which the authorities did not consider appropriate, and to maintain full control over the freedom of information. The government exercised control over the freedom of information through serious measures and penalties. The French laws of that time included death penalty by hanging and choking for unauthorized printing [30, 130]. However, these penalties and strict controls did not prevent the spread of information by print. As a result, during the bourgeois revolution in France, freedom of the press was proclaimed, and on the other hand, a series of normative acts on intellectual property rights of the authors were adopted [30, 150-158]. Press freedom and copyright acts of the bourgeois revolution remained in force until the 1957 Law on Art and Creative Property. The main feature of copyright laws adopted after the bourgeois revolution was, for the first time, the legal recognition of the authors' moral rights over their creative work [3, 301-431]. In my view, the modern approach of French law to information and copyright should be characterized by the recognition of the author's moral rights. Thus, the moral rights of the author over his or her own creative work are related to the recognition of that person as the author what made a self-expression of his work. In other words, the author's relationship with the product is not only proprietary, but also personal and moral relations of the author. The individuality of information contributes to its protection, which also constitutes the right to information security. Consequently, the right to information security is consistent with the idea of protecting the author's moral rights. In this sense, the above-mentioned opinion of Bernard Edelman is further supported. Currently, French copyright law encompasses several regulatory and legal acts adopted in the last 15-20 years [35]. Among them, the French Intellectual Property Code is of particular importance [16]. The Code consists of several books and the first book is dedicated to the regulation of copyright. The first article of the book states that an author has a moral right to his work, which belongs to the author only in the public domain and constitutes an exclusive property right. The article also states that a copyright agreement, the provision of services, or the performance of work does not prejudice the moral rights on that work, except as provided in this Code. As it turns out, the initial articles of the Code contain more moral and spiritual aspects of copyright than the economic aspect.

EU law

It is important to note that the analysis of national legislation of European states is not beyond the analysis of EU legal norms. Because the fundamental aim of EU legislation is the possible harmony of national norms in the region. On the other hand, EU legal norms that have already been adopted force member states to change their national norms and bring them into line with EU regional norms. From the angle of this mutual cause-and-effect relationship, I think that an objective analysis of the national legislation of the European countries encourages us to examine the relevant EU legislation. The EU regulation of intellectual property and its one type of copyright is governed mainly by directives. Review of directives gives us the impression that EU legislation is aimed at consolidating copyright protection among member states and reducing copyright disputes in the European region. Yet, it is not an easy task before the EU as a regional body. Difficulties arising from the regulations have double reasons. Thus, some states adopt EU law but also prefer to keep more independence for national legislature to solve the possible issues. On the other hand, while the legislative procedure within the EU some members strive to establish as light and soft norms as possible. This fact leads to unclear definitions and understanding that harms effectiveness of the regulations itself. Directives play a guiding role for member states, namely the legal principles, and try to cover major problems of modern world, ways in which these problems are addressed. However, EU directives impose common obligetions on member states, rather than specific ones, and give member states national legislative freedom to achieve the objectives outlined in the directive. In this sense, each Member gains the right to include in its national legislation rules contained in copyright directives or to change it slightly, taking into account local conditions. This is why; I see the same discrepancies both within the EU law and national legislation on copyright. In general, EU as an international re-

gional body has already established its regulations regarding interrelations of free information circulations with the protection of copyright in information society [12; 3]. These directives reflect not only the objectives of EU, but also the WTO and WIPO. Thus, most EU member states have joined both the TRIPS Agreement and the WIPO conventions. On the other hand, European Union, which already possesses international legal personality, has also undertaken a number of international commitments to protect its intellectual property. Copyright issues in the European region coincide with history of creation of a single economic zone and information society dating back to the late 1990s and early 2000s. In this sense, copyright directives aim to address issues of intellectual property in e-commerce, intellectual property in the information society, and intellectual property in cyberspace. However, a number of directives have led to conflicting views on the interaction of information rights and copyright. Thus, since the early 2000s, the EU Commission's directives and regulations also suggested that state bodies in the countries should pay special attention to intellectual property rights, protection of material as well as moral rights under modern intellectual property law. However, there were questions on the establishment of directives related to information society. E.g., the discussion of new EU Copyright Directive, proposed in 2001, and the reaction to aforementioned contradictions in the draft modification process again raised serious questions [13]. The expansion of the meaning of "reproductive rights" in new Directive was challenged during the Green Paper review, a form of directive project. Accordingly, the Legal Advisory Board, which advises European Commission on information rights, has expressed its official position that freedom of information and creative activity should be taken into account as inviolable rights while regulating the content of intellectual property [9, 250].

I believe that the views expressed by the Council on copyright and reproduction rights are justified. Public information interests must be taken into consideration as the primary vehicle to change something, especially during the development of information society and the transition to knowledge society. In this sense, the proposed Copyright Directive can also be analyzed in terms of the freedom of speech. The new Directive defines a complete and absolute list of restrictions to limit freedom of speech based on copyright. This requires each EU country to be active in domestic legislation and make it compliant with this list. Of course, in this case, it is not possible for each country to take into account individual local features of its own society and the freedom of each country to make different decisions on a particular situation is vogue. Moreover, it is not appropriate to undermine the institution of information rights and freedoms towards more protection author's rights. And we should keep in mind that the widespread use of ICT and internet resources has had a significant negative impact on copyright protection. Challenges and difficulties associated with these impacts have been identified by the EU in its 2019 Directive regulating copyright in single digital space [14]. According to new Directive, a wide range of information is collected, examined and modified in the Internet as well as in digital single market using various new technologies. New computer programs deal with a huge amount of data mining, which in some cases leads to use of information resources without the author's knowledge. One of the main goals of data collection is the increasing share of education, science, research and scientific practices. At the same time, profits of authors do not suit with the use of their creative examples in digital environment. Therefore, the Directive recommends Member States to take into account possible material revenues of authors when collecting information and adjust amounts paid to authors in domestic market to the actual scale of their use.

In my opinion, the copyright directives contain a number of weaknesses as an independent legislative act. As such, the EU Directives as the EU legislative documents lead to some disadvantages. It is necessary to revise and strengthen the compulsory character of directives as a normative act. It is also necessary to strengthen control over the implementation of the directives in member states. On the other hand, it would be more appropriate to specify within the directives a complete and exhaustive list of restrictions or exceptions that fall outside the scope of

copyright protection. Indeed, many European countries have in their national legislation the exclusion of copyright for personal use, research, criticism, humor, library and museum use. However, these exceptions are retail rather than explicitly within the scope of EU legislation. In this sense, the European system allows economic rights for intellectual property to be widely used and applied as the most prevalent statements by the courts to a wider spectrum. At present, not all EU member states comply with the requirements of copyright directives. However, each country's court is striving to preserve its independence. But it is difficult to agree with this trend. Because at this time the overall binding force of the directive is almost gone. Therefore, one may notice a strong need to re-examine the relationship between EU directives and national legislation. It is important to recognize that European countries have different solutions to the problems of freedom of expression and information rights. Even if there are EU enforced legislation, one can see the differing approaches of the judicial jurisdiction of each country to these issues. For example, member states have the right to choose exceptions from the EU copyright directives. However, the main character of a directive should be the creation of generalized standards. In addition, innovative guidelines have been adopted to protect copyright through the impact of information society and digital marketplace policies. Yet, these directives have not been able to completely eliminate the differences between member states' national legal regulations.

Conclusion

The issue of whether or not the copyright framework has a role of restriction on information rights and freedoms is more concerned with human rights issues. The role of copyright as an object of civil law is also in the focus of international and national human rights mechanisms. These mechanisms place significant emphasis on the impact of copyright on creative rights, media organizations and freedom of information, in line with the nature of subjective human rights. A number of researchers claim for a long time that big information companies have a strong copyright control over the process of transferring and distributing information [7, 39-42]. Of course, there are private companies and associations that have a large share in the global information flow. Smaller companies that acquire copyright on a contractual basis can also deliberately exaggerate their authority and evaluate each public use of their creative examples as abuse. One may also agree that corporations have the power to control key areas of creativity - media, film business, communications technology, music and book publishing - based on copyright for information [20, 45]. However, it is not right to cling to our full pessimism regarding information rights and freedoms. The idea of someone managing a world-wide information exchange in absolute level through an authoritative institution is far from logical.

Moreover, it is also proposed that only original products of creative activity should be entitled to copyright protection and thus, the general use of information about a number of creative aspects do not itself constitute copyright infringement [23, 117]. This tendency, in turn, may lead to the difficult situation for the judiciary dealing with copyright infringement, as well as the imposition of copyright on freedom of information, unrestricted expression, and free access to information. Accordingly, well-known European scholars have long expressed serious concerns about the expansion of copyright, other copyright-related rights, trademarks, and neighboring rights [19, 24; 47]. In this regard, information rights and freedoms are like standing walls against overwhelming copyright. Being the very roots of current information rights, freedom of information and expression supports the original idea of analysis, academic research and development of critique. At the same time it cannot be overused to protect each case of copyright infringement on the basis of information circulation. Yet, scholars recognize freedom of information as the principal defense tool against copyright [29, 25-26].

In addition to the discussed ideas, one can state that, of course, copyright and information rights or freedom of expression serve for the same purpose, which contributes to the development of science, research and academic activities in society. However, it is not right to claim

that these two groups operate in complete separation, or that they do not intersect. The recently proposed "copynorms" notion within informal regulation also recognizes social-ethic links between these 2 groups of rights [25, 294]. Copyright and information rights are human rights and human rights do not belong to an individual or a privileged group. One of the main features of both copyright and information rights is their common and universal nature. International community recognizes all human rights as universal, indivisible and interdependent. Therefore, the notion of human rights must be the issue of primary attention while examining various legal concepts related to intellectual property, copyright in particular. In this respect, experts also prove that any concept not based on human rights features cannot preserve its existence in legal paradigms [2, 8].

The idea of comparing copyright and information rights as well as making one of them more important than the other is not acceptable. All human rights are equally relevant and universal. Copyright protects the form of expression of any original information. The author's rights to his work occurred as a result of his creative activity are no less important than the information rights in society. The use of information rights and freedoms should not always entail violation of copyright. A participant of information circulation can freely receive, impart and disseminate information while obeying to the rules of copyright. Thus, evolvement of conflict between information rights and copyright is quite possible. We should not forget that information rights and freedoms sometimes conflict with a number of other human rights also. Examples include right to inviolability of personal and family life, the right to a fair trial, and so on. Therefore, the complex relationship between copyright and information rights is not unusual, clashing with other human rights is in very nature of information rights and it just needs to be reconciled.

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