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Editorial

Although the Law on Copyrights and Related Rights and Law on Collective Management of Copyrights and Related Rights were passed in 2010, the protection of copyrights in BiH still remains a grey and unprotected zone. Speaking about copyrights in BiH, the focus is always on rights of music artists while on the other hand, the copyrights for photos, journalists / press articles / texts, books, innovations and associated works are hardly subject to serious discussion and are often left completely unprotected. According to provisions of the above listed laws, the Institute for Intellectual Property is in charge with control and monitoring over the implementation of operations appointed to the professional body (associations) in order to accomplish collective and related rights.

However, just until present time, indemnity amounts charged and paid for copyrights is selective, incoherent and focused mainly on the use of music on RTV stations in hospitality facilities. Many problems derive out of this and if we were to be congruous in protecting copyrights, BiH music artists should then pay indemnities for music they copied from world's artists in the first place.

Copyright problems reached its peak with the emerging of vast number of online media houses transferring and sharing music, texts, lyrics, photos, newspaper and scientific articles / texts. Online journalism is at present rather messy field where earning and profit making has become primary goal and target, including social and community influence which can mostly be reached by making copies and stealing other contents.

Many are unsatisfied with the way this law has been implemented in BiH, including dissatisfied association whose work and operations focus the protection of intellectual property, to media and individual creators and artists that are left completely unprotected. Regardless of way this specific area is managed, it would be righteous to protect all authors' works (copyrights) on equal basis and including all fields and area of creating so the provisions of this Law are implemented thoroughly instead of being implemented selectively.

This E - Journalists bulletin edition shall transcript the articles written by Vjekoslav Vukovic - PhD, ex manager at the Sector against organized crime and terrorism in the Ministry of Security of BiH; Amela Hadrović - Hasanefendić, president of "Sine Qua Non", Andrijana Pisarević, female journalist engaged with Srpskacafe.com (local web), Reuf Herić, president of the Board of Directors of the Association of private electronic media in BiH / PEM; Helena Mandić, director for broadcasting of Regulatory Agency for Communication and finally Haris Hasić, Senior Assistant at the Legal Faculty in the University of Travnik.

Adis Šušnjar, BH Journalists Association

Events

7 Jun 2016

Dragan Lukac, Minister of Internal Affairs of RS pays visit to Banjaluka Journalists Club

Sinisa Vukelic, president of Banjaluka Journalists 'Club, introduced Minister Dragan Lukac with the initiative which the club's officials launched to the Constitutional Court of RS, including the Association of BiH Journalists and BiH Transparency International, regarding the constitutional estimate and reconsideration of particular Articles of the Law on Public Labor. This initiative is still to be taken into official analysis and consideration.

[Details](#)

Protection of copyrights and related rights



Inconsistencies in practice causes losses to rights-holders and the state budget

By: Doc. Dr. Vjekoslav Vuković

This title is classified as part of the category of previous press releases or comments in comparison with the existing situation in regulated field.

The work itself cannot be considered a genuine scientific work and it thus requires innovative investigation treatment on the sample basis, with reference to previous periods, including comparative analysis in terms of the implementation as well as the ratio and level of EU standards incorporated into the BiH legislative, also based on the protection of copyrights and relevant rights.

It is worth mentioning that copyrights represent the sum of legal norms that set and govern social relations in terms of creating and using copyrights. The goal of having this right implemented, actually displays a protection of copyrights that can allow authors, writers, composers, painters, artists, scientists etc to make earnings (decent living), that is, intellectual product, regarded as

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4 June 2016

Marko Divković, BHJA new president

Novinar Marko Divković izglasan je za novog predMarko Divkovic, a journalist from Tuzla was elected new president of the Association of BiH Journalists (BHN) and Velida Kulienovic was elected vice – president during the General Assembly of BiH journalists held in Jahorina mountain. During the General Assembly meeting session, participating members also elected new members of Managing and Supervisory Board and Journalists Council of Honor. More than 50 journalists from all parts of BiH, taking active part during the Assembly session, expressed and showed full support to BiH Journalists Association and BiH Journalists clubs around BiH as mechanisms for protection of journalists' dignity, media liberties and freedom, professional and labor rights of all journalists.

Key goals for the coming period of four years as far as BHJ work is concerned, shall include the work on advancing union / syndicate operations, reinforcing Free Media Help Line, additional and special trainings and educational programs for journalists, strengthening journalists clubs, empowering Solidarity Fund, self – sustainability of the Association, development of cooperation with regional associations and more efficient work by the Journalists Council of Honor.

[Details](#)

3 June 2016

BHRT must not be shutdown

In order to prevent public broadcasting program shutdown, Parliament of BiH, along with other associated institutions shall, during next few weeks, receive a request demanding a short term financing plan for BHRT. This plan shall include RTV tax collection fees through electricity bills. This request was also displayed and supported by all participants and experts during the debate on RTV service future held at Jahorina Mountain and organized by BiH Journalists.

[Details](#)

[Messages from expert debate on RTV service sustainability](#)

19 May 2016

Public announcement for the 2016 Journalists' Academy application

Journalism and Communication Studies students (both male and female), including junior journalists (also both male and female) up to 35 years old from BiH have been encouraged to apply for 2016 Journalists' Academy – summer school for education for journalists and journalism students, organized by the Association of BiH Journalists, for the fourth consecutive time.

Each application for 2016 Journalists' Academy should include the following information: required information must be filled in the questioner provided, motivation letter and recommendation letter provided by minimum two persons from the media field or university officials, that is, Department of Journalism and Communication studies teaching staff or associated faculties from the field of social sciences.

Application with supplementary documents should be submitted by no longer than 15 June 2016 via e-mail address: bhnovinari@bhnovinari.ba

[Details](#)

21 May 2016

Media should guide the public about general tolerance

Media and civil society organizations should work closely in creating the environment regarding the acceptance of diversities thus guiding the public about general tolerance, emphasized the

one of the assumption of economic and cultural development. Protection of copyrights is indeed a moral obligation and duty at the highest social level and is accordingly standardized.

Limelight is certainly aimed to author's work created by a man, that is, any physical entity that by his / her intellectual activity creates such work and this work must consequently be exposed in a particular form, so it could become available to the general public. This work must be original and genuine that is, based on its characteristics and it must be different from all other works and the interpretation of its originality and authenticity should be legally judged by the court officials. Namely, this does occur often due to a lack of legal definition of illegal replica / plagiary works in affirmative law of Bosnia and Herzegovina, so the court practice mostly relates to author's personal and rather subjective right, during the analysis of disputed or bordering cases (cases on the edge of being considered and treated as plagiary). Bear in mind that every author is legally protected in terms of the protection of his / her moral rights that protect his / her creative dignity, rights to post / publish or display his / her works, right for author's admittance, rights for work's respect and author's property rights including the following: rights to make copies of his / her work, rights to distribute these works, rights to make press releases to particular and selected audience regarding these works, rights to broadcast and extract other relevant rights deriving from the right for re-broadcasting, making work more available to the public, adherences rights and rights during the secondary uses of work that have been broadcasted through radio diffusion system of broadcasting.

The analysis of existing definitions outlines particular complexity of the entire system which today must be adapted to European norms. In this context and at present, we analyze and take into consideration various Resolutions, Contracts and Directives related to authors' and relevant rights (8 international documents), Provisions and Directives related to stamps / marks (3 international documents), related to innovations (7 international documents), topography and semi-conducting materials (1 Directive), industrial design (2 Provisions), cultivating rights for herbs (21 international document), passing the right of intellectual property (12 international documents), and numerous EU acquires that are still under procedure in terms of their development and regulation stages. According to the above mentioned, we may say that this particular field is at world's and EU level and is hence sufficient and is taken into serious consideration and the number of international documents defining this field (listed above) is certainly not final.

Should we take into consideration that one of the crucial pre – condition in the process of admission of Bosnia and Herzegovina into the European Union, including World Trade Organization, Directive EC 2004/48, which strictly outlines that the implementation of rights of intellectual property in BiH should be in accordance with EU standards, which makes it a constituent part of the Stabilization and Association Agreement. This is exactly why, with help and assistance provided by the EU IPR, European Commission to BiH, the initial draft of the Strategy for the Implementation of Ownership Rights in Bosnia and Herzegovina for the period 2005 – 2020, including the implementation of one of the most demanded European standards, and also provides adequate control tools and mechanism of its implementation in BiH.

In Bosnia and Herzegovina, pursuant to the provision of the Law on Collective Management of Copyrights and Related Rights, Institute for Intellectual Property, conducted controlling and monitoring over the adequacy of the implementation of special operations to independent and unbiased and above anything else, professional body for ac-

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participants during the debate “Media and Civil Societies Cooperation – Advancing the quality of media contents regarding the rights, interests and requirements of LGBT community in BiH”, held in Banjaluka.

During this debate, organized by the Association of BiH Journalists (BHN), they also outlined the need for additional educational programs at the universities regarding the LGBT issues and more topics about the minorities in media fields. Milićka Milojević, president of the Association of BiH Journalists claimed that media houses must take full responsibility in order to prevent the occurrence of stereotypes in public.

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19 May 2016

Media houses in the Balkans enslaved by so called clientelism

During the debate on measuring the Index of clientelism in South East European countries, participants claimed that identifying media houses ownership structure shares and establishing mechanisms required for transparent media houses financing from public budget lines, represented the key to prevention of clientelism in media houses and sustaining journalism as professional occupation. The debate was held in Sarajevo. Debaters from BiH, Serbia, Croatia, Macedonia and Romania warned about continuous collapse of media houses and journalism in general as a result of consequence of clientelism relationships between entrepreneurs and political and business power centers. Munir Podumljak, director of the Partnership for Social Development from Zagreb claimed that media houses in the Balkans have been enslaved by clientelism and that they have been losing their role as mediators between the governing authorities and public.

Details

through OTT platform (Over the Top Content) or simply through the internet is not subject to duties in terms of payments for the loan of distribution network. On top of this, not paying for copyrights, naturally all without any payment of taxes either, this particular distributor acquires accumulated capitals which indeed destabilize the competition of other parties in the market. For instance, lower prices for service providing or by purchasing rights for re – broadcasting of certain TV or radio program show that others don't have or simply by investing into the expansion of infrastructure and facilities that present day broadcasters cannot follow, including the operators as well. Present day operators regularly pay for the above mentioned duties thus losing clients which as a consequence have the solvency margin and financial problems, less income and reduced amount of tax money paid and after all less money in the budget system of Bosnia and Herzegovina.

Having stated this, we can see that right holders are, above anyone else, most damaged category in this chain line and through unpaid taxes and levies the entire Bosnian society in general is also losing. According to last evaluation conducted by DELLOITE, an independent audit house, a decrease of market value of BH Telecom by BAM 150.00 million was noticed and this was to be followed by so called users migration as a result of everything of the above mentioned.

Additionally the conclusion to this confirms that individuals or even associations, protecting particular categories or interests of certain operators, not charging for copyrights for works, broadcasting or re-broadcasting, which was mentioned above, destroy the competition in this market in Bosnia and Herzegovina. As a result, authors' rights are consequently and deliberately violated thus violating the rights of others which again causes a huge budget deficit. Some scientific indicators that should be based on comparative analysis may outline some indicators highlighting the ratio of consequences, if one takes into consideration that the number of real users is increasing today.

The solution reflects the fact that strict EU Directives must be followed and fully met in this particular field and this should at the same time protect the rights of authors and rights of users as well.

quiring collective and relevant rights, in order to prevent any eventual damage to authors in terms of any use or misuse of their works, personally appointed to this bodies so they can provide protection. This mostly concerned audio and visual works.

Current practice confirmed certain discrepancies since the BiH bodies that have or used to have direct contracts with the AGICOA (Association for Collection and Distribution of Copyrights Incomes), including those that developed models of adequate and transparent charging system for these incomes and the distribution of money collected through this system to authors, due to legal unconformity, certain misuses, passing infavorem, legal prescriptions have not been able to provide protection for authors and their income side, including authors in BiH and abroad.

This way of favoring particular association that had not fully met the criteria and conditions, produced illegal and disloyal competition amongst public broadcasters, cable operators, telecom operators and all of this, with the purpose of having certain service providers in BiH market, appeared more flexible and more affordable in terms of the difference in price that they are obliged to pay on behalf of atonement for broadcasting or re-broadcasting prescribed and defined by the law on copyright protection, through and via associations that had been appointed to conduct these activities by the Institute for Intellectual Property of Bosnia and Herzegovina. Bearing in mind that we, at present, speak about digital world, these rights exceed to photographs' rights, authors' newspapers and scientific articles / texts, music, film and everything we could imagine in an endless cyber space. These illegal favoring results in a consequential destruction of competition, causing damages to broadcasters, operators that with high prices they charge are incapable of being competitive to those that are not paying their duties as far as copyrights are concerned. They thus lose their clients and customers making less profit, causing less tax and VAT duties, decreasing employment rate etc, therefore they have a direct influence to economy in Bosnia and Herzegovina. For instance, the distribution of authors work (audio, video, photo, text, article, etc),



Protection of copyrights and related rights



Legal regulation in the field of copyrights and relevant rights and protection level of copyrights and relevant rights

By: Amela Hadrović-Hasanefendić

How many times have we heard the words “IT society”, during the first decade after the Dayton Peace Agreement had been signed? How many time have we heard the words “Knowledgeable Society” or, at the beginning of the third decade, heard the words “Creative Industry”? Prosperity and economic development of any country mainly depend on the level of protection of intellectual rights that, under its original name, comprehend the groups of rights: Copyrights and relevant rights managing and protecting individual and personal spiritual creations from the fields of literature, science and arts and industrial property, including patents, innovations, watermarks, stamps, signs, industrial design, geographical signs of origin. The transition from industrial into digital era, beginning in the 1991 globally created legal assumptions as a response to digital era challenges.

Digitalization has globally inserted itself into almost every single aspect of our lives and made limitless the expansion of knowledge and information share easier, which resulted in the creation of new business models, based on the intellectual property and information technologies and naturally, based on the creation of new values. Productivity deriving from many kinds of creativity has taken over the primacy of the development, which again imposed stronger need for security and wider protection of mind work, as well as the expansion, regarding the new ways of using the products created by human mind. Old fashioned model of earning the rights was no longer a match for new age, since it has become massive, expensive, inefficient and slow, as far as the comparison with digital era is concerned. In order to support the development and create new values, new business models and standards have been created, and as far as the encouraging of the production into copyrights and relevant rights, other rights have been introduced and these rights distriacted from copyrights, since they were not based on ownership rights and personal ownership authorizations, instead, these rights relied on indemnities. Copyrights validity time has been extended from 50 to 70 years from the author’s death as the deadline for relevant rights has also been extended.

First significant global step forward, regarding the protection of intellectual property in new digital era, has been created in accordance with the Agreement of trade aspects of intellectual property of World trade organizations (WTO – TRIPS) from 1996, demanding strict, but fair sanctions that would alienate from the rights abuses, high civil penalties, including required customs measures, since the smuggling of optic discs has in time become much more easier and doable, than it was the case with analogue audio and video cassettes smuggling. Speaking about copyrights and relevant rights, there are, along with TRIPS, two Contracts by the World intellectual property organization for copyrights and relevant rights (WIPO Contracts) from 1996, also known as the internet contracts. In global context and taking the case of Bosnia and Herzegovina into consideration, BiH has accepted international duties, responsibilities, obligations and assignments by the accession, ratification and confirmation of all international contracts and conventions in the field of copyrights and relevant rights and its legislation has been adapted and rectified gradually and on stages. The ambition for EEZ accession, starting in 2002, Bosnia and Herzegovina has been adopting and rectifying legislature regarding the copyrights and relevant rights, with EU legislature specified through directives (acquis communautaire).

The fact can outline the following: Bosnia and Herzegovina has, in the field of copyrights, never had so called legal gap. Just as many other countries re-formed after the fall of former Yugoslavia, Bosnia and Herzegovina has accepted and engaged the federal law on copyrights provisions, passed in 1978 with amendments imposed in 1986 and 1990. This law managed copyrights only while the 1990 amendments introduced the artists’ and performers’ rights as relevant rights, while other relevant rights were not even envisaged or appropriated. Bosnia and Herzegovina passed its first law that was in conformance with the TRIPS, WIPO contracts and EU legislative. This law expanded relevant rights and new rights regarding new types of works, including computer (IT) programs and data bases and the extension of validity of the protection of author’s work from 50 to 70 years after his / her death. Modernization of this law to some extent caught up with the rest of modern world.

As far as the advancement of individual and collective rights accomplishing is concerned, the recently introduced rights would allow any author to, individually or associated by a legal representative and companies (legal entities) authorized by authors, hold permits for performing their work of acquiring copyrights and relevant rights and these can only be issued if specific criteria is fully met including ensured knowledge and skills regarding local and international law, rights acquiring techniques, knowledge and skills covering the financial law regarding the right accomplishment, foreign language knowledge and at least 2 years of experience in right accomplishing which is in accordance with comparative law would be managed by a common sense law and a single common legal act. This law was n force until 2010, when completely new regulations were introduced.

New laws enlarged copyrights and relevant rights with other rights that came into force on 11 August 2010. By imposing the new management of collective rights acquiring, Bosnia and Herzegovina prevented the work of modern business models appropriated with digital period that has, to the rest of the world, become, standard and necessity, which, at the very beginning, displayed the possibility of damages beyond repair emerging, so the legislator, a year after this law had been passed, decided to re-examine the effects of particular legal solutions. Unfortunately, nothing progressive has been done so far regarding this specific issue. Namely, pursuant to new legal regulation, the fields of copyrights and relevant rights have been managed as part of two laws being implemented at the same time,

Press releases

31 May 2016

Protest against the decision by the BHRT Board of Directors regarding temporary shutdown of program

Association of BiH Journalists sent public protest letter to members of BHRT Board of Directors regarding their decision to temporary shutdown this public broadcaster service provider after 30 June 2016. They demanded from members of BHRT Board of Directors to withdraw this decision at once and requested them to recommend relevant measures in order to save BHRT from total financial and program collapse. These measures should include responsible, professional and legal actions taken by the BHRT Board of Directors, including the forming of crisis management team or BHRT temporary management and also launching all legal actions for urgent, irremissible and forced collection of debts by the RTRS and Federal RTV.

[Details](#)

18 May 2016

Regional journalists' associations condemn media pressure against Independent Journalist Association of Serbia

Association of BiH Journalists, Montenegro Media Union, Croatian Journalists' Association, Association of Kosovo Journalists and Association of Macedonian Journalists, strongly condemned inappropriate media pressures imposed against the Independent Journalist Association of Serbia (abbrev. NUNS), their members and their management officials. Journalists' associations from BiH, Croatia, Macedonia, Montenegro and Kosovo expressed their full solidarity with NUNS members and showed support in their fight for free, responsible and ethic based journalism – deprived of any hate and fight based on democratic values.

[Details](#)

the laws failed to fulfill their purpose and expectations for the period of last 6 years. Even today, after 6 years the compassing of other relevant and legal rights is nowhere near the beginning. These include the loan rights, inheritance right of original art works, rights to reimbursement and compensation from private and other personal use of works (private copying), copyrights created by authors whilst employed, publishers rights, reproducing rights of actual journalists articles and similar articles on current affairs in viewing such press (clipping) and money planned for them is at the same time wasted, so the state is also losing money by not collecting tax money either. Also, it has not, from the very beginning, been possible to acquire and accomplish four rights that by ex lege must be collectively carried out through special organizations that should have been established for this purpose only so damages amounting tens of millions of convertible marks came consequentially.

By taking away the Institute for Intellectual Property of BiH for providing permits / licenses for acquiring copyrights and relevant rights based on competences and practical knowledge and providing permits / licenses for acquiring collective copyrights and relevant rights based on the fulfillment of formal conditions, including discretion rights for decision making altogether proved as rather damaging and dangerous. It is obvious and commonly known that the implementation of new laws boiled down and reduced to mere rejecting of applications for permits / licensing grants and taking away permits / licenses to existing organizations and unselective permit issuing to amateurs rather than issuing licenses to professionals. This can be confirmed by the reports issued by the Institute related to the state in the field of copyrights and relevant rights concerning mainly collective management and acquiring rights.

De facto, since the passing of new laws it has become clear that the Institute ignored author's rights from the literature field, including science and art. Institute focused and directed its attention to music, entertainments, stage performing and ad hoc formed associations for collective rights acquiring and its management, which resulted in the creative industry being narrowed down to hyper production of short – term festivals and live music performances at concerts, charging for analogue broadcasting and using of pre-recorded of music works through analogue technical devices in hospitality industry facilities including

considering that certain way of rights acquiring was “torn apart “ from the Law on Copyrights and Relevant Rights, namely, collective right acquiring was transformed into a complete monopoly – based system, so that for identical kind of rights on the same type of works, there could be only one (single) collective organization whose legal shape must be done through the association registered legally to cover this specific area throughout Bosnia and Herzegovina. The implementation of this law required passing of 6 common acts and due to obvious over - standardizing, it has been defined that, in case of the collision of legal provisions in comparison with the international law, the priority during the implementation process shall be in favor of international contracts signed by Bosnia and Herzegovina official authorities during the accession process.

According to the law, it is defined that certain rights were to be achieved after one year from the day of passing this law into force and some rights can be implemented three years after their passing. Also, this law directed to the implementation of other laws, such as the Law on Inheritance. Duties and obligations emerged as well regarding the assumptions of the protection of rights by obliging the conformance of entity laws, including Brcko District which related to work and authorization and mandate of trade inspections and also forming of recent quasi state body in charge with solving tariff and rates issues and disputes. Untranslatable provision by which a company must be transformed into an association has been deliberately introduced and accepted, which, by the existing laws is impossible.

The quality of every law is evaluated and estimated by expected effects and results, which also includes recent and new legal regulation. As oppose to law passed in 2002 which produced expected results for both, authors and state, by efficiently acquiring and protecting copyrights of local / domestic and foreign authors and began paying taxes on that basis, new legal regulation has, in reality and practice, created a common chaos under the cloak and patronage of the Institute for Intellectual Property of BiH, which from its foundation in 2004 has not managed to employ a single person in charge with copyrights issues. This issue is left to experts in charge with relevant rights engaged with the Institute from 2010.

Speaking about facts, ever since these new laws came into force, including the provisions defining the scope of copyrights and relevant rights,



facilities in shopping centers. Creativity from the fields of literature, science and arts that make most significant contribution to the development of creative industry is consequently systematically and gradually declining. Generations born after 1996, grow up in the digital era of the internet, CD players, Play Station and multimedia works, MP3 and MP4 devices, mobile phones, USB devices, tablets etc. Generation being able to socialize through social networks only, receives information through web sites, gets educated based on an on – line distance learning system with books on cloud containing copyrights and relevant rights, purchases this material through the internet, the work of Institute according to granted authorizations and permits can only encourage people to leave this country.

We could conclude this issue by stating that there are new laws in Bosnia and Herzegovina that are indeed, in terms of contents, in conformance with the international laws, but they, on the other hand, as far as business, legal and political ambience in Bosnia and Herzegovina is concerned, are in practice very hard or even impossible to implement and are hence considered merely a letter on a piece of paper. Because of this, we have made no progress for the period of last 6 years, attempting to achieve everything we had accomplished from 2002 until 2010 and author and holders of rights related to copyrights are thus being damaged and these detriments amounts reach tens of millions of convertible marks, which in fact is the outcome of these new laws. The beneficiaries of these new laws include mostly users of copyrights and relevant rights that had been violating these laws until recently and that were allowed and appointed by the Institute's issuances of licenses to manage the field of rights.

My photo, everyone's property

By: Andrijana Pisarević

Anything posted on the internet basically belongs to everyone. These words should best be used to illustrate and describe our relationship towards photos and their authors in BiH. They often refer to their own photos as to “common public goods” and make jokes about this issue. This occurs due to lack of serious legislative and legal protection regarding this particular field.



And they are right. It only takes two clicks for anyone's author's work, created as a result of long and hard work studying and getting education, including investing in equipment and struggle regarding the editing and processing of given recording, to become someone else's work, with no reimbursement and signature by the original author of that particular painting / photo. Photo reporters in BiH are often treated or even considered as hobby based photographers and their photos, created and taken in the rain or sun and created after several hours of waiting for some important person (VIP) to appear in front of photo camera objectives, are forwarded and transferred through the net with blink of an eye, thus becoming an illustration on web sites or newspapers and all these photos consequently become completely free of charge.

Although legally and officially protected by the Law on Copyright and Related Rights in BiH, photos and their authors are still left alone and unprotected since everyone “misuse their work” tearing their work bit by bit, without their permission and without making any payment. The protection appears only as declaration rather than serious and legal protection tool. Photos are easily downloaded, shared and attached and no one even thinks for a minute whether the copyrights are being violated by doing this. Personal photos, also legally considered as copyright work, although private, are being distributed and shared through the internet within seconds if the characters appearing on them become part of some story. Even this should not be done without permission of the person who had, in the first place, uploaded the photo or photos, especially when the subject comes to personal photos, since this is not only the violation of copyrights, but this also represents the violation of privacy rights.

It is absurd that, during the era when the photo has become almost more important than the article / text alone, there isn't even minimum copyright of authors and their photos. In Europe and worldwide, this kind of copyrights has been protected for a long time and according to all indicators provided, BiH is by far lacking behind all modern regulations. As far as text copying is concerned, there is far stricter attitude, while photo transferring and sharing with no permission by the author or at least his / her signature, is not even considered as crime (theft), although the legal provision predicts a fine between BAM 1.000.00 and 200.000.00 for this felony. No one so far has ever been fined for illegal copyrights, although the law provisions and fines do exist legally and we could at least rely on them and commend ourselves in front of European community as law – abiding country.

Theoretically in this field, copyrights are violated as a result of ignorance and with no intention to violate them which often refers to contents on the internet and commonly accepted approach that everything we see on the internet should be at everyone's disposal and can be used without any limits.

On the other hand, it is much more complex when copyrights are violated deliberately and intentionally. Being aware that there are almost no photographers that would, due to their photos being misused, stolen or illegally dispersed, press charges against any media house, we encounter the situation where these photo works are being downloaded and copied on daily basis and with no hesitation by those who have been misusing them whatsoever. Occasional reaction may occur should the author sign the photo and even after this, it is still the good will of media houses whether they want to take this photo, that

Media on media

13 June 2016

Jusko: State / Public TV must not be shut-down; everything is in hands of the Parliamentary Assembly of BiH

Ismir Jusko, Minister of Communication and Traffic has, during the interview for Klix.ba, stated that he would do anything in order to prevent state / public TV from being shut-down however he outlined that everything is in hands of their founders, that is Parliamentary Assembly of BiH.

Details

9 June 2016

BHRT responded to accusations by the FTV personnel: Be precise and do mention full names, time, and whereabouts of persons threatening your staff and which FTV staff / employees were threatened

According to accusations released during the Federal RTV Management Board Meeting session, where BHRT officials allegedly threatened to diminish and reduce capacities required for Federal RTV program broadcasting procedure, which they considered as the introduction of criminal felony, BHRT general manager, consequently demanded serious arguments to be presented specifically highlighting who, when, and against whom were these threats aimed.

Details

31 May 2016

Mijatovic: Shutdown of public broadcaster in BiH is neither a solution nor option

Dunja Mijatovic, OSCE representative for freedom of media, appealed, once again on BiH governing officials to make urgent actions regarding the public broadcasting system in BiH as a result of the decision made by the members of BHRT Board of Directors to cease all programs as of 30 June this year, Dunja Mijatovic claimed that even temporary shutdown of program deprived general public of rights to be provided with key public information as this should be used as a solution to upcoming financial difficulties. She also added that the current situation may be resolved only by the complete implementation of the law.

Details

27 May 2016

Association of Commercial Media Houses formed

On 26 May, the association of Commercial TV houses (UKT) in Bosnia and Herzegovina held assembly meeting of newly formed the Association of Commercial TV Media Houses in BiH. The importance of organizing commercial televisions was highlighted during the assembly session, with reference to advocating, soliciting and protection of common and mutual interests toward state / public bodies, official ministries, Communication Regulatory Agency, including marking agencies as well.

Details

26 May 2016

BHRT Union: Entity broadcasters should pay debts

Management Board of the Independent BHRT Union (Syndicate) demanded the solution for problems regarding the long lasting issues of debts by the Entity public RTV broadcasting services by 31 May. These problems were highlighted in the financial report of BHRT for 2015 and the Union representatives outlined that the Entity broadcasters kept the collected money from the RTV Tax collection fees and never paid their share to the BHRT account. Accordingly RTV BiH owed BAM 2.5 million and RTRS owed 8.5 million to BHRT.

Details

is, whether they would grant his will as well. This situation remains intact just as we described it with no further progress made. No photographer can afford court charges if he / she decided to press charges against other party and photos being stolen consequently almost never become subject to criminal fines or even a stressful phone call threat.

Media houses pay their journalists more for texts / articles while photos are being completely underrated and underestimated although no text / article without proper photo being attached to it shall be viewed and read as when it would stand without a photo. Photographers get paid for their photos only for printed editions in most cases. Newspapers express more concern to authors and this is not unusual. Web sites usually take / download the photos and make no contact with their authors and photos are often shared from authors' private profiles. If we take into consideration that there are over 100 news web sites and only 20 of them operate on professional basis, including editing desk, professional photographers than we can conclude that at least 980 of them are actually copy and transfer the news. Furthermore, it means that every one of them takes and copies photos at least 50 times over, thus violating photographer's copyrights.

Photographers that decided to spend most of their lives with their camera claim that, after being asked whether their occupation can allow them to have decent living, only when they make photos during wedding parties, prom nights or social event parties, photo shooting can allow you to make some profit. This is actually their basic living tool. Reporting in photos for media is more for pleasure since very few photographers can make profit out of this and only if photographers work on full time or causal work contracts. Photographers are not well – organized and hence have no means to act mutually and protect copyrights. It is not unusual that they often don't know their basic rights in terms of copyrights legislatives. Even if they do get paid, they mostly get from five to ten BAM and up to BAM 50, 00 for exclusive photos. Journalists usually receive 50, 00 to 100, 00 BAM per story and for exclusive stories they get a lot more than this.

Differences in earnings are also visible from town to town, from city to city, including Entities as well. Reporting journalist from a smaller town is often a photographer as well, so when he sends a text / article for which he usually gets 20, 00 BAM to his editing office (his employer) he also sends the photos for free, since all photos related to this particular texts are included in the initial BAM 20, 00 price. Those working in bigger towns sometimes have the opportunity to sell their photos for the same amount without even sending their text / article. Banjaluka photographers claim that their earnings are much below earnings of their colleagues in Sarajevo and they usually earn four times less than their colleagues in Sarajevo. Those having an opportunity to make a decent living out of photography business do not live in Bosnia; instead they live abroad in Croatia or Slovenia. Still author's photography does exist in Bosnia and it can be protect through the Institute for Intellectual Property of BiH and in order to do that, one must pay BAM 30.00 for registered work.

Without this, intellectual property can hardly be proved and confirmed so the photographers often protect it by the use of format keeping the raw format for themselves and providing and users with a jpg format. Additional problem the photographers encounter during the daily media shows is the fact that they cannot protect their work which resulted in watermark, a water mark over the media logo and those willing to transfer it, must advertise another media house or must ask the author to lend it.

As far as this issue is concerned, it is also important to emphasize the difference between author's and owner's work. Photo author is holder of the right, while owner's right can be transferred to a third party or media house. Au-

Vacancies

Public announcement for the 2016 Journalists' Academy application

Journalism and Communication Studies students (both male and female), including junior journalists (also both male and female) up to 35 years old from BiH have been encouraged to apply for 2016 Journalists' Academy – summer school for education for journalists and journalism students, organized by the Association of BiH Journalists, for the fourth consecutive time.

[Details](#)

Klix.ba, local web site portal announced job vacancies for journalists and desk editors

[Details](#)

thor's right cannot be transferred and owner's right can be transferred and it has certain expiry date and can also be limited by conditions.

Also author's right, by the law, lasts 70 years after the death of that author, while the expiry date for the photos in BiH, we could say, lasts from the moment of uploading. After this photo becomes everyone's property and this shall remain intact for as long as it takes for them to get legal protection for their working rights.



Protection of copyrights and related rights

Relationship between radio and television towards copyrights and associated/related rights in BiH

By: Reuf Herić

Type of rights that radio and television houses often encounter

Radio stations and television houses, during their regular work, including the broadcasting of music and advertisements, often make unintentional contact with the (mis)use of other copyrights that have been protected through copyrights, performance and phonograms rights.

Copyrights define the ownerships over texts, music and arrangement of music work.

Holders of these rights in Bosnia and Herzegovina are protected by the special Legal Entity organization – namely the Association of Composers – Musical Creators (AMUS).

They set their work as far as cooperation with media houses is concerned through Collective Contract since 1 Oct 2012.

Performance rights refer to ownership over performed music work recorded on either digital or analogue sound / compact disc. In short terms, holders of this right are singers and musicians / players. AIS – Association of performers and musicians protect their rights in BiH. They set their work as far as cooperation with media houses is concerned through Collective Contracts since 19 Nov 2015.

Phonogram rights refer to ownership over the recorded musical work. In short terms, holders of this right are producing or discography houses that conduct the production of music work in their studios. In BiH they are protected through the Association for the protection of phonogram producers – FONOGRAM. They set their work as far as cooperation with media houses is concerned through Collective Contracts since 11 May 2016.

Any legal or physical entity, entitled to purchase the ownership rights may additionally become the holder of single or multiple right over certain music work. There are samples in BiH where a single entity owned all of the above mentioned three types of rights over a single or multiple music works.

From 1995 to 2010 there have been many problems between the authors on one hand, agencies representing authors (SQN) on the other hand, representatives of associated rights, on the third hand and media houses on the fourth hand. However, solving the core of most of these problems had actually begun with passing the provisions of the Law on Protection of Copyrights and Related and Law on the Collective Management of Copyright and Related Rights posted in Official Gazette of BiH, number 63/10, on 3 August 2010.

Public Service duties and responsibilities towards copyrights and relevant / associated rights

Public services (BHRT, FRTV and RTRS) broadcast music so they are obliged to pay indemnities to authors, performers and phonogram producers. However, Public service broadcasters do not pay for any court procedure expenses and costs regarding this issue and yet complain about the struggle in terms of finances they have been going through, relying and waiting for the Law on Public Service to be passed and implemented. This situation produces a great revolt amongst private media houses that had been paying enormous amounts of money for the above mentioned indemnities and especially revolt amongst TV houses

that had been legally fined pursuant to court procedures with money fines varying from tens to thousands of BAM. These revolts have not been aimed against the public service broadcasters, instead they have been aimed against the agency representing the authors (ex. SQN / present day AMUS).

However, taking into consideration that Public service represents particular and legally defined field, I reckon that other media houses (private, municipal and cantonal TV and radio stations) should rather be more concerned about the indemnities for their own work and they should leave the relationship between Public Service and agencies protecting copyrights and related rights to be sorted amongst these two parties.

Radio and television houses and their duties and responsibilities towards copyrights and relevant / associated rights

Pursuant to the decision passed by the Communication Regulatory Agency in BiH (RAK BiH), 43 TV houses and 145 radio stations (139 standard radio, 2 medium waves and 4 of being non – profit radio) broadcast their programs through earth / ground radio diffusion system (not including Public Broadcasting System). There are over thirty TV houses broadcasting their programs through cable TV system in BiH having only one or more than one channel on air. All of the above mentioned media houses are available for any contact which included the availability of their addresses. Agencies protecting copyrights and relevant rights make certain contact with these houses which means that there is a typical debt – creditor based relationship. This relationship is regulated through the above listed Laws and Collective Contracts.

Most media houses operate on individually signed contracts with agencies protecting copyrights and relevant rights, thus defining obligations and duties applicable. Few media houses believe that duties and responsibilities towards copyrights and relevant rights should not be settled at all; defending their opinion by outlining that their views may be defended and protected on courts or through other associated legal ways.

However there is a large number of radio stations and tens of TV houses that broadcast their program, mostly music, through the internet. The incomes they made are not legitimate since the payments they receive from their clients are completely un-registered (so called “illegal incomes”). Some of these media houses addresses have been registered as agencies, but most of them are not legally registered regardless so they can be found and contacted. Still, agencies protecting copyrights and relevant rights have not yet begun corresponding with these media houses due to their indemnity charges. Having taken this into consideration, agencies imposed indemnity charges for copyrights and relevant rights mainly derive from registered private, municipal and cantonal media houses, broadcasting their programs based on permission by the CRA relevant decision. Due to inefficiency of results produced by these agencies, Public Services and other media houses consequently avoided paying for the above mentioned services.

Conclusion

The core of copyrights and relevant / associated rights, as far as the law side is concerned, is better regulated in BiH than in any other surrounding / neighboring country. Laws and Collective contracts clearly define relationships between media houses on one hand and agencies protecting copyrights and relevant rights on the other. Perfect solution for functioning is parted and separated through the following:

- Old court disputes lead by the SQN as former agency for copyrights protection, are still under legal proceedings, ongoing and active. I shall not get trapped by making remarks regarding court decisions, but most terminated and non-terminated / incomplete legal court disputes between the SQN and media houses should at least be repeated and with more caution result in the implementation of law provisions and thus determine the existence of both, active and passive legitimating of both side in that particular dispute. Besides, it remained unclear whether the money charged pursuant to court decisions in fact reached and was deposited into the account on their owners – authors.

- Agencies protecting copyrights and relevant rights have limited number of signed contracts with other users and money collection they received from these users, could also be considered insufficient, including hospitality facilities (coffee shops, bars, pubs, restaurants, hotels, concerts, public parties, transport companies, shopping centers etc). In their total income including the amount charged through media houses, they have to participate with 7- 10 % (considering market conditions, financial power and number of media present). Therefore, the focus of problems should not rely on media houses, instead, the focus should be on all parties obliged to pay indemnities to authors, performers and phonogram producers.

- Agencies protecting copyrights and relevant rights failed to set quality communication with those media houses refusing to pay indemnities regarding the copyright issues. In most cases, talks can sort out all disputes, including the signing of individual contracts and commence with charging for indemnities applicable. As far as very limited number of media houses is concerned, as these media houses seek solutions in order to unjustly avoid payments for indemnities, they have been obliged to conduct, the problems should be taken to the court and court shall impose and pass all decisions and verdicts pursuant to legal and law provisions.

- New disputes between media houses and agencies protecting copyrights and relevant rights from the day since the Law in 2010 was passed until today are very limited. However, the court decisions based on these disputes are implemented rather slowly and the Law on the Protection of Copyrights and Relevant Rights is consequently passed slowly, including the Law on Law on the Collective Management of Copyright and Related Rights and Collective contracts.

Media market in Bosnia and Herzegovina is very poor, messy and unprotected and thus perhaps the worst in Europe. Under such circumstances, media firstly signed contracts with authors, performers and phonogram producers. They openly proposed cooperation based on mutual development plans and support. I believe that these intentions should be used by all means.

Incoming events

- **Public debate** “Responsibility and role of media and CSO in the process of reintegration and sustainable return”, Prijedor, 23 June 2016

- **2016 Journalists’ Academy** – summer school for education for journalists and journalism students, 25 June – 5 July 2016, Boracko Lake

Communication Regulatory Agency Mandate in field of copyrights



By: Helena Mandić

Communication Regulatory Agency (Agency) Mandate, regarding the field of copyrights and deriving from the Law on Communications (“Official Gazette of BiH”, Number 31/03, 75/06, 32/10 and 98/12), is to some extent limited and does not provide the Agency with full competence, in terms of implementing the law, as far as the protection of copyrights and related rights is concerned.

Article 3, item d) of the Law on Communications of BiH defines:

4. Council of Ministers of BiH and the Agency, pursuant to their individual mandates, defined by this law, would take all reasonable measures in accomplishing the following goals:

d) Protection of copyrights and other related rights for intellectual property, including personal data / information and privacy;

This provision does not clearly define Agency’s mandate in terms of neither copyrights protection, nor does the Law clearly defines in what way and to what extent the Agency’s mandate exceeds in terms of copyrights protection.

Consequently, Agency, after the Law on Communication had been passed, continued with the pre-established practice including complaints handling, regarding the unauthorized use of protected author’s work (copyrights). In short terms, Agency would, upon complaints receiving by the license/permit holder, seek evidence and proofs on acquired right, based on the responsibility, as part of appropriate regulatory documents, abiding at the same time, relevant legal provisions handling this specific area of law.

Rule 77/2015, regarding the providing of audio and visual media services (Article 19) (“Official Gazette of BiH”, Number 3/16) and Rule 76/2015, regarding the providing of radio media services (Article 18), (“Official Gazette of BiH”, Number 3/16), defines that the holders of rights issued by the Agency, is obliged to present proofs and evidence regarding the broadcasting of material protected by the copyrights or other relevant rights. As far as the distribution of audio – visual media services (Article 7) (“Official Gazette of BiH”, Number 98/11 and 52/15), operators are obliged to provide the Agency with the statement on acquired rights over programs they get, based on signed contracts / conformities and regarding the distribution with program owners or their authorized representatives.

Agency rules and regulations, in regard with copyrights protection, neither defined nor determined the way copyrights or relevant rights were acquired; instead rules and regulations defined weather the license / permit holder issued by the Agency, had signed the contract on using the protected rights. Agency, by ex officio launched a preliminary procedure of examining and analyzing the violation of Agency’s rules and regulations, initiated by the complaint which must contain elementary data / information about the author, copyrights, station name and the date and framework of broadcasting the protected material, taking into consideration the period within which the stations must keep the program archive, pursuant to Article 6), a) and c) of the Rule on the procedure of managing and handling the conditions of permits / licenses and Agency’s regulations (“Official Gazette BiH”, 18/95).

It is also important to mention that actual cases that the Agency is handling and proceeding are not under proceeding in order to protect violated copyrights or relevant rights and indemnity for damages caused, for which the case proceeding, pursuant to Law on Copyrights and Relevant Rights in BiH (“Official gazette of BiH”, number 63/10), defined that it was the court and its mandate handling these kind of proceedings with clear indication of weather the permit / license user had been using certain protected works without previously required, necessary and gained rights.

This kind of Agency’s stance and clear role by the Agency in accordance with the protection of copyrights and relevant rights has been confirmed by the verdict passed by the Court of BiH filed under the following number: U-1017/15 from 3 March 2006 during the administrative proceeding instigated pursuant to complaint and law suit by Sine Qua Non doo. which, at this time, had the license issued by the Institute of Intellectual Property, against the decision passed by the Agency regarding the administrative violation of rules in relation with obliging the regulations deriving from copyrights resulting in the refusal by which the complaint filed in by Sine Qua Non doo officials filed against BHT1, claiming that the Agency, during the process, failed to examine the validity of the contract of copyrights of Dino Merlin. By this verdict, passed by the Court of BiH, it was clearly indicated that the validity of contracts could be decided only by regular court authorities during the law proceeding at the request of authorized party, taking into consideration that during the administrative proceeding, the body managing the proceeding, in terms Law on Administrative Proceeding of BiH, had no mandate to make decisions regarding the validity of legal works and contract relationship amongst the parties involved.

As far as the broadcasting through earth/ground radio – diffusion is concerned, contracts were not requested in advance, instead and as it has been defined, they were required only upon the receiving of an official complaint while lesser exceptions occurred in the cable TV distribution field where the permit / license contain the annex which included all distributing programs, while the holder of rights is obliged, prior to distribution, and to submit signed

statement on acquired right, followed by the program being classified and listed into the annex upon the receiving of such statement.

During the implementation process of this mandate, the Agency is during the contract validity, requested to follow the legal regulations from this particular field. Legal regulations from 2002 was incomplete in sense of allowing this party to have protection of a particular right to be handled and managed by more business companies while the problems of this kind are removed by imposing new legal framework from 2010.

Parliamentary Assembly of BiH, on July 13 2010, passed the Law on Copyrights and Relevant Rights (*“Official Gazette of BiH”*, Number 63/10) and Law on Collective Management of Copyrights and Related Rights (*“Official Gazette BiH”*, Number 63/10) that came into force in August 2010. According to the Law on Collective Management of Copyrights and Related Rights (abbreviation ZOKOASP), collective management of copyrights included copyrights acquiring for more author's works by more authors altogether through legal entities specialized for that particular field only and that fulfill all conditions pursuant to the provisions of this law and that have the permit / licenses issued by the Institute for Intellectual Property of Bosnia and Herzegovina for performing this particular work. Also, Article 6 of the ZOKOASP in item 3 indicated that for collective acquiring of copyrights related to the same (identical) type of rights on the same kind of work, there can be only one (single) collective organization.

This law enabled the authors' organizations and other holders of rights, including legal entities specialized for acquiring copyrights to, during the period of two years since the law had come into force, conform their status and their business activities with the provisions of this law and apply for new permit / license for operating within the scope of collective management of acquired authors' rights (copyrights). According to the above mentioned, Institute for Intellectual Property of BiH, on 21 June 2012, issued an appropriate license / permit to the Association of Composers – Musical Creators (abbreviation AMUS). During the period between 2012 and 2015, AMUS was the only licensed organization for collective rights acquiring, and in this concrete case, for authors' music works. Institute for Intellectual Property in BiH, on 16 October 2015, issued licenses to the Association of Film Artists in BiH also for collective rights acquiring over audio and visual works. The Institute also issued a license / permit to the Association for Protection of Phonograms Producers / (abbreviation “FONOGRAM”) for collective management of rights acquired for all phonogram producers. The license issued to the Association of Film Artists in BiH was, under suspicious circumstances, taken away and again granted to the Association of Film Industry under the different name (License / Permits for collective rights acquiring for indemnity for cable re – broadcasting of audio – visual works) in Kiseljak on 21 April 2016.

In practice, as far as defining of rights for broadcasting and playing musical contents is concerned, license / permit users should sign the contract on using works according to valid collective contracts with the possibility to, in cases when the contract rights, transferred for the use of protected copyrights, is not completed, appropriate right is considered transferred if the user make payment to the account of collective organization, conducted with local justice of peace or court officials to the amount that the collective organization would normally charge according to valid tariff. According to interpretation by the Institute for Intellectual Property in BiH and taking into consideration the fact that AMUS signed a collective contract with representative association of users (AEM, PEM, URS¹) regarding the use of broadcasted music works by which the valid tariff is defined for these works, the user cannot deposit the money with the local justice of peace, instead he must make the payment to the account of collective organization.

Tariffs defined for the use of musical works and the general work by the organization for collective copyrights acquiring, was the subject to an official complaint by the certain number of license holders issued the Agency. Besides a series of complaints was directed to the problems that had existed in the area of copyrights and related rights at the time when licensed organization in charge with collective rights acquiring over audio and visual works did not exist, outlining and thus highlighting the focus of the importance of the existence of the same organization. License / permit holders have been informed that, since the Agency was not authorized to supervise to work of collective organization and can accordingly not interfered into signed contract terms aged between the holders, licenses / permits and third parties involved.

As far as the rights of re-broadcasting of protected program contents by the cable operators, the above mentioned decision by the Institute of Intellectual Property shall certainly produce the need for additional explaining of particular issues in the scope of rights. However, at this moment it is hard to anticipate further situation.

Being aware of the importance of the copyright issues, the Agency has, with the purpose of relegating subject areas from the field of broadcasting, and taking legal regulations at the same into serious consideration, including the duties and responsibilities of abiding the rules set by the Agency related to the use of material protected by copyrights and related rights, attempted and put in significant effort in raising awareness on abiding and respecting both, the Agency rules provisions regarding the use of material protected by copyrights or other rights, as well as importance of respecting and abiding copyrights in accordance with legal legislative in this particular field.

1 AEM-Association of Electronic Media, PEM-Association of private radio and TV stations in BiH, URS-Association of Local Radio Stations RS.

Overview of the current state of Copyright in Bosnia and Herzegovina



By: Haris Hasić, MA

When was the last time you infringed on someone's copyright?

Do you know what copyright is and what constitutes infringement? Do you care?

If you are like the majority of our compatriots, you will answer both questions with a probable „NO!“, judging by the fact that according to certain presumptions 60% of all software and close to 90% of all music in sue in Bosnia and Herzegovina are a direct result of infringement of one or, often more copyrights.

A Bosnian is not a thief, nor was a Bosnian ever a thief. This particular archetype was never particularly important in our collective understanding of self. If someone cuts a tree in a forest, works on the tree and makes a beautiful chair – rarely would anyone steal that fruit of his muscles. Why is it then that if the same man were to warm up that same chair by pouring his soul and life in to the void of the empty page, why is it that we then consider that it is ok to steal the fruits of his mind? Why is the chair more valuable than a book? Why is it that the workings of hands are more valuable than the workings of the mind?

Copyright is a systemized set of legal rules governing legal relations between subjects of the law regarding qualified, individual intellectual creations. In other words, copyright protects the result of creative spiritual work of an individual.

Bosnia and Herzegovina has some very good legal rules in the domain of copyright and related rights. The two primary laws, Law on copyright and related rights (Official gazette of B&H 63/10) and the Law on collective management of copyright and related rights (Official gazette of B&H 63/10) were adopted in 2010. Both are expertly crafted and are almost in their entirety harmonized with the applicable international conventions, and furthermore are harmonized with the copyright theory and practice the world over. They were made through the working of the Institute for intellectual property of Bosnia and Herzegovina, which has jurisdiction regarding certain questions in this area, and by the foreign and local experts. Furthermore the laws are harmonized with the Directives of the European Union that the EU uses itself to harmonize certain aspects of copyright protection in its member states. Since 2010 the EU had adopted further two Directives (on certain aspects of the use of orphan works and collective management of copyright and related rights) that are not fully implemented in the Copyright law but which does not make the laws significantly disharmonious with the theory and practice of the EU and are sufficient to satisfy the obligations that Bosnia and Herzegovina had undertaken regarding the protection of copyright and related rights in the Stabilization and Association Agreement.

The area in which Bosnia and Herzegovina has most certainly not satisfied its obligations in is in the domain of the implementation of these laws and in insuring an appropriate level of protection.

This alarming state is brought about by primarily two factors:

1. The lack of readiness and competency on behalf of the government bodies implementing the legal rules, and



Copyright misconceptions

1. *In order to be protected, a copyrighted work must be filed or in other way protected at the relevant government office*

Copyright stems from and belongs to the author by mere creation of a work and it is not conditioned by the fulfillment of any formalities or requirements in respect of the contents, quality or purpose thereof (translation from the official web site of the Institute for Intellectual Property of B&H)

2. *Only published works are protected*

Unpublished works are equally legally protected as published works if they are an individual intellectual creation

3. *Idea is protected by law*

Idea is specifically excluded from copyright protection in article 8 par. 1 of the Copyright law together with concepts, procedures, work methods, mathematical operations, principles or discoveries, official texts in the domain of legislation, administration and judiciary (laws, regulations, decisions, reports, minutes, judgments and alike), political speeches and speeches made at court hearings, daily news or miscellaneous information having the character of mere items of press information, folk literary and artistic creations (translation from the official web site of the Institute for Intellectual Property of B&H)

4. *It is allowed to infringe if it is not to make a profit*

In almost all cases the use of copyright protected works without the permission of the author or rights holder, no matter if there is or is not any profit being made represents an infringement.

5. *In order to be protected the work must be created by a professional author*

No, copyright does not have consent of a professional or amateur author, but only just author – works are equally protected no matter the qualifications of the author.

6. *Only high quality (or expensive or voluminous works) are protected by copyright*

No – copyright protects any individual intellectual creation, no matter its volume (one word can be protected), quality, artistic value, the amount of thought or effort or money invested in its creation. All individual intellectual creations are equally protected by copyright.

7. *A work on the internet can freely be used*

Even if the author or rights holder had approved the placing of the work on the internet (which is not always the case) this allows the user only to access and consume the work and to place a link to the work – for any additional use an express permission of the author must be sought.

8. *Copyright dies with the author*

Copyright lasts the entire life of the author and 70 years after the death of the author.

9. *In order to be protected a copy of the work must have a © sign, name and year of publication*

If a person places this sign they only get an advantage of a disputable legal presumption of authorship that can be useful in case of a lawsuit.

10. *Author or right holder can prohibit any use of a copyright protected work*

The law provides a string of express permissions to users to freely use copyright protected works, if they qualify by a set of stringent terms.

2. Lack of awareness or knowledge on copyright issues on behalf of the populace at large.

The relevant government bodies are not up to the task of implementing an effective mechanism of protecting copyright and related rights in B&H, in spite of the fact that the USA and the EU have invested considerable efforts and funds in trying to change that, in spite of the enormous political pressure on the part of the developed nations to protect copyright and related rights and in spite of the fact that the laws have been in power for over five years now.

Among those who study and work with copyright and related rights stories abound of the inspectors lacking elementary knowledge of the regulations or having any technical acumen in understanding and wrestling with modern mechanisms of copyright and related rights infringement in general and with organized criminal enterprises who infringe copyright and related rights as their primary purpose – pirates, in particular.

The courts are overburdened with different types of cases, and if and when they actually do process a rare copyright case they demonstrate a worrying level of incompetence in providing a timely and consistent legal protection. If there even is a verdict, in the vast majority of cases so much time has elapsed that the enforcement of the verdicts is either impossible or pointless. There is a consensus in the business community that the courts are impotent in providing protection in the case of infringement and a large number of the business people has stopped petitioning the courts for help altogether.

The Criminal code of Bosnia and Herzegovina has classified certain forms of copyright infringements as criminal acts for which there exist the possibility of a jail sentence lasting up to three years. Still, prosecutors complain that when they actually want to process these types of criminal acts, the responses by the judges are invariably: „who did he kill, son, so that we should punish him so? “

Certainly, at least a part of this is directly caused by the changes in copyright itself, which came about as a result of the digital revolution in the last two decades. The Copyright of the analog age, which had for subjects professionals – publishers, music and film producers, professional authors and agents, and which was written to be applied by said professionals, has, with the advent of digital tools of manipulation of copyright protected works has descended in to the domain of the populace. Each and every one of us now has the possibility to create exceptionally high quality copyright protected works, and every cellphone or computer is a potential tool to infringe – often a great multitude of rights. Never in the history has more kinds of copyright protected works been protected by more kinds of copyrights and had there been protected by the threat of more voluminous and harsh pun-

ishments. By the very act of creation the author acquires some twenty odd kinds of copyrights. There is a chorus of voices pointing out to the inadequacy of the implementation of laws written for the analogue age to the digital reality. All of this stands. However, Bosnia and Herzegovina had undertaken an obligation to provide the level of protection commensurate to the one that exists in the European Union. On this obligation, Bosnia and Herzegovina is significantly insufficient.

And when the day arrives and we do begin our accession negotiations, as was the case with Croatia and as was the case with other countries, we too will be asked and will be put on a great test of whether we had or had not satisfied this obligation. That test we will not pass.

The problem is to be found in the fact that the public does not know or does not want to know about copyright. The general level of knowledge and understanding of copyright and related rights is frightfully low. This is to be understood as the matter of copyright and related rights is complex and technically demanding by its nature, but this at the same time is not a justification. The same rules are in use in other countries of the world as well and they do not have it as bad as it is here. The issue of copyright and the efforts to raise awareness are met either with silence, an ambivalent shrug or most troubling, with open hostility.

The cafes do not pay taxes, let alone pay licensing fees. The taxi drivers barely make ends meet let alone being forced to pay this or that musician to play some music to shorten the day.

Copyright is seen as a weapon against instead of being seen as a tool for prosperity and economic development of Bosnia and Herzegovina.

The fact remains that there are way more Chinese, Bangladeshi or Myanmar and numerous other poor sods of this world than there is Bosnians. Never will a Bosnian worker be as cheap as a wretch from this or that slum where they sell children for a few marks.

Bosnia is not nor will it probably ever be technologically or industrially developed to match the powers of this world.

Where is it then that we are to find our niche? Maybe it actually is in the protection of copyright and in the corresponding promotion of intellectual creation that we are to find our comparative advantage.

The Bosnian mind is equal if not better than any other mind on the planet. Stories abound and more numerous are evidence still of this fact, in spite of our trademark pessimism.

Bosnia can compete with the Chinese or the Americans of this world on the potential of the power of our mind. That is where we are to find our brighter future.

Each individual case of infringement is a step backward from this goal.

One has to eat each day. One must keep warm each winter. To feed and to provide warmth one can do by working in the field and in the forest. Both options are honorable and valid. But not everyone is for the field or the forest. For some, their talents lie more so in the quill and the paint-

Permitted uses of copyright protected works in informing the public

The author has an exclusive right to present the content of the copyright protected work to the public, pursuant to the terms of article 24 of the Copyright law, but the legislator has allowed, pursuant to article 44 of the Copyright law, in the amount needed to inform the public on current events to:

a) to reproduce the works appearing as integral parts of the current event on

which the public is being informed,

b) to prepare and reproduce clippings or abstracts from individual published

newspaper and other similar articles in press reviews,

c) to reproduce public political, religious and other speeches made before state

or local government offices, religious institutions or during state or religious

ceremonies,

d) to freely use daily information and news having the nature of press release. (translation from the official web site of the Institute for Intellectual Property of B&H)

It is permitted, pursuant to article 47 to quote a work for the purpose of scientific research, criticism, polemic, review, education or other review in a measure justified by the express needs of the illustration, confrontation or referral, and in accordance with good practices, and if the name and sources are indicated. It is permitted to parody copyright protected works. Daily news or miscellaneous information having the character of mere items of

press information (translation from the IIP web site) pursuant to art. 8 par. 1 are excluded from copyright protection in their entirety which means that anyone is freely available to use them without compensation or limitations as long as the used part suits the nature of the described intellectual creation.

Pursuant to art. 41 it is allowed to reproduce in periodical press or in the clippings therefrom individual published articles on current political, economic, religious and other similar current

issues, unless it is explicitly prohibited by the author (translation from the official IIP web site). With this kind of use it is necessary to pay the appropriate fee to the relevant collective management society or other body and to indicate the source and the name of the author, if it was used in the published work, but permission by the author is not necessary.

As in each case, if there is any doubt about the volume or the characteristics of the use of the copyright protected work, the most prudent act is to consult a qualified copyright expert.

Free Media Help Line

Actual cases:

BN TV and Croatian RTL TV teams – During the Banja Luka rallies on 14 May 2016, BN TV and Croatian RTL TV teams were brutally assaulted by certain rally demonstrators. These threats were legally reported to the local Police Station officials, including the Ministry of Internal Affairs officials in Banja Luka. MIA authorities informed us that these reports were filed in and processed for further investigation.

FTV “Mreza” Magazine: Nerminka Emric and Elma Kazagic – Our female colleagues were threatened due to their investigative reports, revealing tax evasion and match fixing affairs. Threats had also been reported to MIA of RS officials.

Mirjana Radanovic – Our colleague, Mrs. Radanovic received phone death threats by her boss. The money bonuses she had received may have been considered as background for these threats. She had been receiving bonuses for “Volim sport” show, while she was engaged with REC production house. She reported these threats to local police officials in Banjaluka.

Dragisa Sikimic – Mr. Sikimic, our colleague received phone death threats by Luka Petrovic, Secretary of the Alliance of Social Democrats of the Republic of Srpska. Threats were directed as a result of alleged defamation. The protest letter was sent to Luka Petrovic.

ATV Banjaluka, BN TV and HIT TV / report teams from all three TV stations, following the police action titled “Provalnik” (“Burglar”) at the Brcko District territory, Donjeg Žabara, Pelagićevo and Lopare were verbally assaulted.

“We will shoot you unless you stop filming”, they heard. These threats were also reported to Pelagicevo police station officials.

brush and the keyboard. Should that someone be hungry and frost-bitten?

Each copyright infringement sends a message to that creative individual and the world at large that they are not worthy. That in the folds of the mind there is no success to be had as can be in the strength of the muscle. By infringing copyright our society abdicates from its future for the sake of current convenience.

Journalists must not allow the infringement of copyright, by the members of the public at large, by raising awareness and educating the public, but also by the members of the profession as well, by strictly punishing through legal, professional and societal means each and every iteration of infringement. An ignoble case exists of a famous daily newspaper publisher that published a photograph they found on the internet without indicating the source or the name of the author, or paying compensation. After a lengthy court process the author was compensated with less than a hundred marks, while the court costs were over one thousand and three hundred marks. These kinds of acts represent a stain on the profession and a target for mockery by the world.

Journalists have a duty to respect copyright.

On the one hand they have a duty to do this because the journalists themselves live off of copyright. Because they create and use copyright and thus must respect their own and the work of others if there exists even a little hope that others too will respect their work.

Journalists have a responsibility to educate themselves and the public at large on copyright and, through awareness rising, instill respect and appreciation of copyright and related rights in the populace.

Therefore journalist, editor, information worker, allow me to address you personally – learn as much about copyright as you can, honor and respect the rights of others and demand your right to be respected and honored. Study, my journalist, consciousness of the society, and when you learn share your knowledge with all those that will and will not want to listen. Allow me to paraphrase Captain America when I say that when all of the public of Bosnia and Herzegovina tells to you stop this foolish errand, to change and to make your peace and to join in the common practice of infringement and ignoring of copyright, you should plant yourself like the tree at the shore of the river of justice and loudly proclaim to all: “No, you change”, all in the hope that one day we can see about the bright future of this beautiful and dear country of ours not in the strength of our muscles but in the potential of our neurons.

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