

**RESTRICTIONS AND LIMITATIONS ON EXCLUSIVE COPYRIGHTS FOR  
PUBLIC USE**

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***Annotation.** This article covers where the limits of the restrictions of the author's rights begin and end, and the parables that his limits are different in different states. In addition, the concepts of free or normal use of the work are discussed based on scientific discussion. Finding all of these limitations enables one to recognize the characteristics of the civil law standards for the unrestricted use of works, point out areas for development, and establish the limits of authorized usage.*

***Keywords:** Limiting and restricting authors' rights; free use; exclusive rights; copyright; balanced standards; public use.*

One of its civil law tools for maintaining relatively unrestricted use of works is the limitation of exclusive copyrights. The accomplishment of a just balance of interests among writers, copyright holders, and users is a sign of how well restrictions, in conjunction with other civil law tools, are used. Despite being an exclusive right, copyright is subject to several limitations for the benefit of the general public. These limitations can be of two types: specific (restrictions and exclusions from property rights) or general (relating to copyright generally, such as limiting the length of copyright or requiring compulsory licenses). They can also be internal (specifically covered by national and regional copyright laws and pertinent international conventions) or external (connected to other legal standards that must be balanced with copyright, such as freedom of expression, the right to privacy, antitrust rules, etc.). Certain issues are clarified by restrictions and exclusions, such as allowing copying for private use, citation and criticism, replication in a particular manner for educational purposes, and extending access for individuals with impairments. To maintain a balance between the rights of the public and the author, there are restrictions and exceptions. The development of the economy, society, and culture is aided by this equilibrium.

Public policy justifies the establishment of restrictions and exceptions, which are intended to further societal goals. In actuality, they set limits that dictate how much encouragement authors require to keep up their creative output, in conjunction with other limitations outlined in the law, such as the validity period. They improve access and bolster education and freedom of speech.

Different countries apply different restrictions depending on the social, economic and cultural needs of these countries. Such provisions can also be effectively used by a country to meet its development needs.

Let's see what the Berne Convention says about this. The Berne Convention provides for four main types of exceptions and restrictions:

- exclusion of certain categories of works;
- exclusion of certain usage actions;
- involuntary licenses;
- a general three-step verification within the framework of the right of reproduction.

Although the Berne Convention provides for specific limitations or exceptions, the list provided in it is not exhaustive. The list of exceptions would never be complete and would never be able to take into account all potential cases, especially those that relate to the special needs of individual Contracting States. For this reason, the drafters of the Convention preferred to specify some specific exceptions and provide a general rule regarding the right of reproduction, according to which a Contracting State may include an exception in its national legislation.

A feature of copyright restrictions is the lack of an opportunity for the author to prohibit the use of his works since society uses the author's work within the defined limits by direct permission of the legislation. R.Ricketson believes that the restriction is related to the elimination or assumption of the elimination of protection of specific categories of works.<sup>1</sup>

Restrictions on proprietary copyrights are known to the legislations of different states, and it is characteristic that many countries establish a fairly wide range of opportunities for such use of works. As I.A. Gemini notes, for example, in England and Ireland, it is allowed for the library to make copies of the work to any users who have signed a special declaration. In this case, the library employee follows the established procedure for reproduction and ensures

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<sup>1</sup> Ricketson S. Limitations and Exceptions of Copyright and Related Rights in the Digital Environment, Geneva.

control over execution and payment of remuneration to the copyright holder. In several countries, for example in Argentina, the institution of paid use is known. We are talking about a system of foundations, entities that, on the one hand, protect the creative activities of authors and their financing, and on the other hand, contribute to the information provision of the population<sup>2</sup>.

The specifics of the activity is to provide users with the necessary information at the expense of the collected funds. However, not all literature is included in the list of public fund, and not everyone can use this service. So, in countries such as Algeria, Tunisia, Bulgaria, you need to pay a fee or take a special permit for access to information from government agencies. In countries such as France, Portugal, interested persons can choose a certain type of work.<sup>3</sup>

On the other hand, as regards the adaptation of the system of exceptions, the WIPO Copyright Treaty simply indicates— quite imprecisely— in its article 10, that “Contracting Parties may, in their national legislation, provide for limitations of or exceptions to the rights granted to authors of literary and artistic works under this Treaty in certain special cases that do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.” This is what is often referred to as the “three-step test.”<sup>4</sup>

At the same time, the very concept of “copyright restrictions” is absent in the Civil Code of the Uzbekistan Republic, in connection with which we propose to define it by including it in paragraph 60 of article 1058 of the Civil Code of Uzbekistan, to state in the following wording: “*Restrictions on exclusive copyrights as one of the types of relatively free use of works is the possibility, established by law or by copyright holders, of using copyright objects by an indefinite circle of persons without the permission of the copyright holders by providing separate methods of use while preserving personal rights within the limits outlined by law or by copyright holders.*”

Due to the fact that one or two rights are most often limited and users do not have absolute freedom to use works, these restrictions are of a point nature and therefore are one of the types of relatively free use of works.

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<sup>2</sup> Intellectual property law: textbook / I.A.Bliznet, E.P. Gavrillov, O.V. Dobrynin (et al.); edited by I.A. Bliznet. M.: Prospekt, 2010. p. 87.

<sup>3</sup> Intellectual property law: textbook / I.A.Bliznet, E.P. Gavrillov, O.V. Dobrynin (et al.); edited by I.A. Bliznet. M.: Prospekt, 2010. p. 87.

<sup>4</sup> “The role of the three-step test in the adaptation of copyright law to the information society” Christophe Geiger, e-Copyright Bulletin, January - March 2007.

The necessary condition for this is the purpose of use. It is characteristic that all cases of restrictions, depending on the scope of application and the realization of needs, can be divided into restrictions imposed for public and personal purposes. By public goals in copyright, we mean the goals of various layers of society, expressing their interests and needs in the use of works of science, literature, and art. Personal goals presuppose the interests of individual users in the use of works of science, literature, and art. Note that these two goals are interrelated.

However, the requirement of non-conflict with the regular exploitation of the work is the one that truly presents an issue, as it has the potential to significantly limit the independence of national legislators. In fact, how should "normal exploitation" be interpreted?

The Directive and the different treaties don't truly clarify this issue, and it's unclear how to interpret the idea. In this case, the WTO Panel's report is frequently cited, wherein it was determined that the standard of normal exploitation included taking into account both the types of exploitation that currently bring in money for the author and those that were most likely to be significant in the future.<sup>5</sup> So, a large number of copyright restrictions for informational, scientific, educational, or cultural purposes are provided in the Civil Code of Uzbekistan, according to which, without the consent of the author or other copyright holder and payment of remuneration, but with mandatory indication of the author's name and the source of borrowing. S.A.Belyatkin noted that "public interest and public law force the sacrifice of the author's rights when it comes to familiarizing the public with speeches delivered in legislative, etc. meetings and courts."<sup>6</sup>

Based on the analysis of copyright restrictions, it can be noted that Uzbekistan legislation is intensively developing in the direction of increasing cases of relatively free use of works. The identification of all these restrictions makes it possible to identify the features of the civil law norms of the free use of works, indicate the improvement of these norms and determine the boundaries beyond which the use of works is unacceptable. Despite the fact that restrictions on exclusive rights are allowed at the level of the law, nevertheless, in order to respect the rights and interests of both authors and users, they should not be excessive and go beyond the limits established by the norms. Restrictions should be applied within the limits

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<sup>5</sup> Panel Rep. of 15 June 2000 (*prec.* note 18), § 6.180.

<sup>6</sup> Беляцкий С.А. Указ.соч. С.70.

determined by the purpose of use, be proportionate and proportionate, and not subject to broad interpretation.

**References**

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