

Towards European Union Standards: The Albanian Legal Development and Protection of Author's Rights

Ergysa IKONOMI

Ismail Qemali University

Introduction

The Civil Code of King Zog I was the first modern law to recognize Intellectual Property (IP) rights in Albania.

The end of WWII was an important moment for global political development. Unfortunately, Albania became part of the Eastern communist bloc. Since 1945 a set of signs began to appear, indicating deep modification of the society, political regime, economic organization, and the culture was forced to submit to the soviet model. (Topçiu, 2008)

During the communism era there were finalized real attempts in the separation, not only as concepts, but also as legal regulations of the two branches of IP: the author's rights and industrial property.¹ Over this period there had been adopted several legal acts (decrees) recognizing author's rights in Albania. These acts had short and indoctrinated contents, to accomplish the main aim of the state: total control over intellectual creativity. As it was stated in the preamble of the Albanian Decree no 4389 of 1968, the copyright laws served “*in order to encourage and develop the creative activity of people of literature, arts and science to create works with a sound ideological content and high artistic value in the service of socialism and revolutionary education of the masses...*”.

By controlling the creators, the authors, and the contents of their works, it was easy to manipulate people, given that the literary and artistic creations were the main mode of entertainment.

“*And under this main appeal the actors of the materialization of ideology (artists) were oriented by the state to clearly understand their position in support of the cause, otherwise they risk being considered unnecessary, worse yet, enemies. They must serve ideological transformation, otherwise “spiritual food of the masses”. They have to materialize ideology into a “real”, understandable, based on sanctioned principles, initially imported from the state of communism and then implemented in the Albanian reality as one need for necessity.*” (Hoxha, 2014) In Albania the authors suspected of modernism and authors of tradition, who did not conform to formal ideological schemes, had tragic fate. Their violent punishments were not necessarily for anti-Marxist or anti-Communist ideas, but only for the form of artistic manifestation outside the socialist

¹ Industrial Property was often expressed under the terminology of “inventions and rationalizations”.

realism templates. (Topçiu, 2008)

Beyond censorship and totally oriented creativity, that discouraged the real and proper creativity, the legal framework produced negative consequences even regarding the economic exploitation of the artworks. It was conceived and expressed as an author's impetus to renounce from "exaggerated rewards" from their works: "...*relying on their revolutionary initiatives to give-up excessive rewards for literary, artistic and scientific works*", but also "only one-time reward" was enforced by laws.² "The initiative" was most appreciated by state, expressed as: "*manifestation of socialist patriotism, putting the general interest over the personal interest, were the initiatives of workers and intelligence to give-up royalties, many additional rewards and other income over the salary base...*". (Instituti i Studimeve Marksiste-Leniniste, 1981) The panorama of forty-five years, apart from cultural backwardness, produced also lack of interest on exploiting the artworks and widespread indifference on author's rights. The overthrow of the political regime in the early 90s, introduced *inter alia* the necessity of the adoption of a new law regarding the author's rights.

This article will tend to clarify in detail the Albanian efforts towards completing the legal framework, by adopting several laws on author's rights, ratification of many of the international acts regarding author's rights and also by raising the level of protection of author's rights similar to the EU level. *The first part* of the article will focus the adoption of the law of 1992. It was an early phase that had a great importance because it completely changed the way of regulating the relationships originated from the intellectual creativity. The second law on author's right was adopted in 2005 and introduced significant improvements regarding author's rights. The differences with the previous law and the new regulations will be discussed in *the second part* of the article. *The third part* of this article will be dedicated to the actual law, adopted in 2016 highlighting the need for its adoption and the highly approximation to the EU Directives. In all the three parts, it will be analysed not only the respective law, but also according to the respective periods of time there will be mentioned the ratification of international legal acts, the foreign reports on the Albanian progress on author's rights and on the work of competent authorities.

The Early Phase (1992-2005)

The long-awaited change of the political regime imposed the obligation to finally adapt with international legal developments, by adopting a complete different legal framework starting from Constitution. In April 1991 was adopted the law "*Për Dispozitat Kryesore Kushtetuese*", which introduced a general approach to Human Rights, like those recognized by international acts. In addition, the art. 27 (2) of Universal Declaration

² The author was entitled of one-time reward for publishing, the republishing of the elaborated work and for any other use of the work. This reward was given to the possessor of the artwork, if the work was published, displayed, executed in public for the first time, after the death of the author.

of Human Rights is the first and properly selected one to show the importance of intellectual creativity and its moral and material interests. Furthermore, the provisions of the Albanian *quasi*-Constitution highlighted the plurality of properties as the base of economic development, guaranteeing each of them equal protection by law. These provisions with a brief and general content, can be interpreted undoubtedly as referring to intellectual property as well.

A year later was adopted the law “*Për të drejtën e autorit*”, which had a short, but modern content that made possible: (1) the cut off from past regulations of author’s rights included in the Civil Code of 1982, and (2) the return of previous experience of decrees on separated legal acts for author’s rights and industrial property, with one law dedicated only to author’s rights.

The Law of 1992 defined a list of creations (*literary, artistic and publicistic*), considered works including the original and the derived works. Between the works mentioned (even the list was not exhaustive), the genres of which were previously created and released in Albania, for the first time were mentioned “computer programs” in the category of written works. There were provided moral and economic³ rights for the author (s) as: “*the first owner of moral and economic rights over his work*”. The incomes from the author’s rights were considered personal incomes, so a taxable category, calculated only by personal declarations of the beneficiaries of the incomes. The law provided also for guaranteeing the rights of phonogram producers, broadcasting organizations and the executors, without grouping these categories under the “neighbouring rights” concept but mentioning them as “other rights”.

The respective rights and the way of administering them were different in cases of: (1) co-authoring, (2) collective works⁴ and (3) works created pursuant to the employment contract. While moral rights could be transferred only after the author’s death according to the legal regulations of inheritance, the economic rights could be transferred even by the author himself. One of the ways of exploiting the economic rights was the issuance of licenses by the author. In both cases the law required the written form.

There were included provisions about the collective management of author’s rights, mentioning the creation of only one national Agency, which would be responsible for the collective administrative directions of the rights if the authors did not exercise the rights by themselves or in case of lost or unknown authors. In fact, the role of the Agency as the only national legal entity under the supervision of the Ministry of Culture was not clearly defined. In the absence of a specific state authority for author’s rights, it seemed that the Agency was that authority, but when the law indicated the proper functions of

³ Specifically mentioned by law as “moral rights” and “economic rights”, terms which will not be used by subsequent laws.

⁴ The creation of the collective work identified the possibility for the author to be not only a natural person, but also a legal entity “*with the initiative and under whose direction the work is created and with whose name has come up*”.

the Agency, it became clear that it would carry out a similar activity as the actual CMOs.

One of the main provisions of the law was related to the term of protection of the rights. Aiming to be coherent with the most European states legal experiences in this field and especially to the Berne Convention, the Albanian law provided generally 50 years of protection after the author's death.⁵

Shortly before the adoption of the law, Albania had become a member state of WIPO. In the coming year Albania took the first step in signing, ratification or accession to other international acts related to author's rights. *Imprimis*, it was decreed the Albanian accession to the Berne Convention. Until the adoption of the new law in 2005, Albania also realized through laws the accession to: Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, Convention for the Protection of the Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, WIPO Performances and Phonograms Treaty, Universal Copyright Convention and its two Protocols and WIPO Copyright Treaty.

In 1998 Albania adopted the Constitution which has a dual approach to the author. *First*, as a person, as declares the fundamental human rights and freedoms as: "*inseparable, inalienable and inviolable and stand at the base of the legal order*", recognizing that everyone has the right to earn their livelihood by lawful, accepted and selected work, based on the freedom of economic activity and the prohibition of forced labour. The inclusion of creative activity and its benefits respectively in the Civil Code and in the Labor Code tells of its nature as a form of work. (Ikonomi & Zyberaj, 2017) *Second*, as an author precisely guaranteeing the freedom of artistic creation and scientific research, their use, and moral and material benefits from them. There is only one article on author's rights, which means a general protection for these rights, but also indicates their importance as it states that the author's right is protected by law, referring to a specific law which has to respect the Constitutional standard of protection.

In 1995 there were made a few changes to the Albanian law of 1992, which were focused in three key issues: (1) the term of protection (2) the collective management of author's rights and (3) the expressed statement that the author may be a legal entity also. Undoubtedly under the impact of the Council Directive 93/98/EEC the amendments extended the term of protection from 50 to 70 years *post mortem auctoris*, to adapt to recent European development. The term of protection did not change for the applied art works. The amendments recognized the possibility for the authors to create "agencies" to realize the collective protection of their rights. These agencies were private partnership companies, different for every branch of art. These agencies, under the supervision of

⁵ According to the law the moral rights were forever preserved (except for: (1) anonymous or pseudonymous works and (2) collective photographic or audio-visual works, the protection terms of which were equated with the protection of the economic rights). Also, both economic and moral rights of applied art works had 25 years of protection from the day of production.

the Ministry of Culture, had to perform a non-profit activity and their functions were like those of the national Agency of the law of 1992. The art. 2 of the amending law also provided for the author not only as a person, but also as a legal entity: “*which takes the initiative and the responsibility*” to realize the audio-visual work.

In 2000 there were adopted further amendments. The art 50 was amended to be more specific about the violations of the author’s rights. It was enlisted a list of actions which if contravened the law or international agreements, despite that they violated moral or economic rights, were considered criminal offense. Respectively, the new Albanian Criminal Code which entered in force in June 1995, provided for two criminal offenses that were related to plagiarism and piracy. While the disputes between the user and the copyright holder (author or agency) should be submitted for civil court proceedings.

The last additions on the Law of 1992, before it was abolished, were made in 2001. These additions were necessary to identify the administrative violations, the authorities responsible for controlling and sanctioning. The administrative violations were all punishable with fines, 40 % of which were benefited by author’s agencies.

The Second Phase (2005-2016)

In 2005 a new law related to author’s rights was adopted in Albania. This new law “On Author’s Right and Other Neighbouring Rights related to it” was the fulfilment of the purpose to have a more complete law, also closer to the European legislative developments.

The 2005 law provided with a list of “definitions”, necessary as a mini dictionary in explaining 43 terms regarding author’s rights and other neighbouring rights. Generally, this new law included as protected works same list of creations as the previous law,⁶ but added the list of creations, which were not protected as works with:

- *ideas, theories, concepts, discoveries, and inventions in a creative work, regardless of the way it is received, explained, or expressed.*
- *official symbols of the state, organizations, and public authorities, such as weapons, seals, flag, emblems, medallion, badges, medals.*
- *means of payment.*

The content of author’s right continued to be expressed as divided in two main parts, which were named as personal non-property rights and property rights. The personal non-property rights maintained their nature and characteristics and through this law were added more personal non-property rights, such as:

⁶ The 2005 law provided for database, for *sui generis* rights of its author and for the short term of protection of this type of work: only 15 years.

- *to decide whether, how and when his work will be presented to the public, and the place where his work will be presented for the first time in public.*
- *to withdraw the license to use the work, if necessary, to ensure that the rights and legitimate interests of the right-holders of the exploitation of the work are not violated, which may be undermined by this act of the author.*

The property rights were expressed in a more complete way compared to the simple way used by the previous law and also the 2005 law used the term “exploitation of his work both in material and immaterial form” as the main exclusive right, instead of “allowing over his work”. In this case more than the way of expression, the difference lied in the mode of conception of property rights of the author. Moreover the 2005 law explained the way some of the property rights could be exercised by the author. One of the rights not recognized by the previous law was the “*droit de suite*” was mentioned by the 2005 law for works of fine arts, calculated as 5% of the price of the resale of the work. This new right had the hybrid nature of a moral right because could only pass through inheritance and of an economic right because the way was exercised and of the profit of the author.

The term of protection was the same, but the 1992 law considered the protection to be over the last day of the last year of protection, meanwhile the 2005 law provided that the protection of the work after the author’s death to be calculated from the first day of the following year of the death of the author or, as the case may be, of the first lawful appearance in the public of the work.

The property rights were transferrable only by written, registered and certified contracts. The author might allow his property rights to be exploited exclusively or non-exclusively by benefitting a reward. It was clear that the volume of rights that could be exercised by the third person and the author’s reward were proportional. The 2005 law specifically provided for two types of contracts, explaining the form and the rights and obligations of the author and the third persons. Probably the two most common and used contracts: the publication contract and the contracts for theatrical and/ or musical performances, were included in two different sections of the law.

The second part of the 2005 law provided for the neighbouring rights. it was the first time those rights were named so. There was no definition for neighbouring rights, but the law implied the “dependence” nature of them as stated that: “*The neighbouring rights of author’s rights do not violate the rights of the latter.*” The neighbouring rights, both property and non-property rights, were similar to author’s rights and belonged to: (1) performers and executor artists, (2) producers of phonographic registrations, (3) producers of cinematographic and other audio-visual works and (4) companies of radio and television.

The administration of rights could be realized even by the Collective Management Agencies (CMO), one for each branch of art, licensed by the Ministry responsible for the culture, for 3 years term, with the renewal right. They had the right to transfer the administration of author's rights and other neighbouring rights to foreign agencies of same or similar branch of art. The 2005 law provided for the main institution The Albanian Office for Author's Rights (ZSHDA) responsible to carry out activities in support of and implementation of the Albanian legislation on author's right and other neighbouring rights within the territory of the Republic of Albania. In 2006 a decision 232/2006 of the Council of Ministers defined in details the status and the activity of ZSHDA, its structure and organization, its duties and responsibilities, its financial organization, the procedures of application, registration and certification and the functioning of regional offices, one for each county.

The signing of Stabilization and Association Agreement between the EU and the Republic of Albania in 2006 marked an important moment of the beginning of the difficult process of Albanian integration in the EU. The SAA was considered one of the most important political achievement in Albanian history, but it also meant the fulfilment of a list of duties. One of the main duties was the making of the existing laws and future laws gradually compatible with the Community *aquis*. The approximation should focus primarily in important areas, such as: "*intellectual, industrial and commercial property rights*", among others. The SAA provided that within the next four years Albanian should take the necessary measures to guarantee "*a level of protection of intellectual, industrial and commercial property rights similar to that existing in the Community*".

Albania had just adopted the new law in 2005, so it would be difficult to adopt immediately another. The National Strategy of Development and Integration 2007-2013 recognized "*the protection of intellectual property through, among others, the strengthening and consolidation of ZSHDA*" as one of the strategic priorities regarding the development of the Albanian culture.

In 2008 the 2005 law had an amendment by the law no 9934 of 2008 'On one amendment on law no 9380 of 2008 "On Author's Right and Other Neighbouring Rights related to it"'. It was really an interesting amendment regarding the extension of the term of protection of the works of the authors who had created and published during the dictatorship period. The legislative initiative was based on the grounds that their heirs had not benefited the legitimate rewards, since it had been forbidden by law to receive reward more than once for a work. The Parliament extended by law the term of protection of the economic rights to 23 other years. (Ikonomi & Zyberaj, 2017) The next law amendment in 2013 was focused more on administrative offenses and the procedures of control and appeals.

In those years, the situation in Albania was not improved. Counterfeiting and piracy

remained not only widespread, but even unpunished. Few cases regarding especially the author's rights were brought to court. The general level of the public awareness was very low. The 2008 Albanian Progress Report of European Commission defined the Albanian progress on intellectual property rights as "limited". The regional offices were not established and there was only one inspector on author's rights to cover the entire country. Additional human resources and further training of them was needed to strength the capacity of *ZSHDA*.

Next year the Albanian Progress Report of European Commission recognized some progress on intellectual property especially the accession to the European Convention on Cinematographic Co-production, but underlined some weak points, such as: (1) the 2005 law was not yet compliant with European standards and the draft national strategy on intellectual and industrial property was still pending adoption, (2) the capacity of *ZSHDA* remained weak although the training of its staff and (3) the planned network of 11 regional copyright offices had not yet been established.

The Council of Ministers adopted the National Strategy of Intellectual and Industrial Property (NSIP) 2010-2015, based on Czech experience, to reform efficiently the whole system. This Strategy mentioned the preparations for a draft law, which was expected to improve by: (1) guaranteeing author's rights and neighbouring rights, (2) strengthening state control, monitoring and punishment measures and (3) providing with accuracy the cases which constituted administrative offenses. The draft law would be approximated with some EU Directives, as well,⁷ but it was highlighted by the 2010 COM Analytical Report that as *ZSHDA* operated under the 2005 law, the process of adopting a new law indirectly created inactivity in implementing the law in force.

In November 2010, an analytic report of the Commission called "fulfilled" the commitments of Albania from SAA regarding the participation in international organizations and being a party of most of the international agreements regarding author's right. But the legal and institutional set-up was still weak, even it was expected that the new law to be adopted before the end of 2010. It seemed that the first stage of the ten years term of SAA was partially successful for Albania. This is the conclusion of the Albanian 2011 Progress Report which stated that: "*progress has been limited in the field of intellectual property law and Albania has not succeeded in meeting its SAA obligations on time*". While the progress regarding enforcement has been limited, there was no progress as regards alignment with the *acquis* in the area of copyright and neighbouring rights.

⁷ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society; Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art; Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights; Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (codified version); Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights (codified version).

As the new law failed to be adopted and the Strategy was not effectively implemented and monitored, there was little progress recognized by the 2012 COM Progress Report. A little progress was made in awareness-raising process, through informing and training activities carried out by ZSHDA, especially “targeting” judges. The 2013 COM Progress Report repeated that *quasi* any progress was made during the last year, except for the staff training and the amendments of 2005 law, as mentioned above. Highlighting the lack of new law adoption, the Report stressed out the need for its adoption, although calling even the preparations as not advanced.

The decision of the European Council of June 2014 to grant Albania candidate status was a recognition for the reform steps undertaken, but also an encouragement to step up the pace of reforms, especially in those areas where the concrete improvements were moderate, such as: the protection of intellectual property rights. As long as Albania had not met the SAA commitments, it was required, as stated by the 2014 COM Progress Report, urgent and determined action to: (1) adopt the new copyright law, (2) strengthen inspection capabilities by, *inter alia*, establishing the market surveillance inspectorate, (3) improve the collective management system and (4) apply effective sanctions for infringement. In 2015 the new law on author’s rights was not adopted yet. So even the obligations provided for by the National Strategy of Intellectual and Industrial Property 2010-2015 were not fulfilled, exceeding any given deadline. The 2015 COM Report highlighted the need for improvement of the functioning of the CMOs and payment of royalties to rights holders.

The Actual Law

Effectively some of the activities included in the NSIP 2010-2015 objectives remained unrealized. The foremost one, the adoption of the new law failed to be fulfilled. The National Plan on European Integration (NPEI) 2016-2020 admitted the problem of delay in adopting the new law. Although the NPEI 2016-2020 highlighted some achievements regarding: (1) the increase of administrative capacities of ZSHDA through training, (2) the monitoring of IP market, (3) the functioning of 4 CMOs and (4) the introducing of IP module in the curriculum of schools and universities. The next NPEI 2017-2020, emphasized the need for the adoption of some legal acts pursuant to the law and the relevant amendments to the Criminal Code and Procedural Criminal Code.

Finally, Albania had the new law “On author’s rights and other neighbouring rights related to them” adopted at the end of March 2016, which entered in force six months later. The Relation of the Council of Ministers stated that the purpose of the new law is to: *“ensure a better level of protection for authors, artists, and copyright holders in general, to provide a suitable environment to ensure the respect of these rights, ensuring in full the balance between the private rights of the rights holders and the public interest*

in information as well as the appropriate business climate”.

The adoption of the 2016 law, was followed few months later by the adoption of a new National Strategy on Intellectual Property. The new NSIP 2016-2020 does focus not only on the simple implementation of the IP rights, but mostly on the improvement of the whole IP system through scientific research work and by raising awareness on the protection of IP rights, so NSIP will function as a policy tool to encourage investment both in research and development. The main issues in the focus of NSIP 2016-2020 are: (1) further strengthening of the national system of protection of author’s rights, (2) public awareness of the importance of IP rights, (3) the well-functioning of the collective management system of rights and (4) institutional co-operation.

Certainly, the actual law is the most complete law on author’s rights in Albania, and “*harmonized at the highest possible rate in Albanian jurisdiction*” with EU Directives. The 2016 law has been fully or partially approximated *quasi* to all EU Directives regarding author’s rights, except for the Directive 2012/28 EU on orphan works. The respective explanation on exclusion was justified by the fact that: “*this is a directive which also the countries of the region, where the structure of this law based, have approximated after they have become part of the EU. So, even among the EU member states there are countries which have not made it part of their national laws because of the specifics of its regulatory object and their national context*”, and the Directive on orphan works is specific, so to be fully approximated with further legal amendments of the law.

The actual law avoids containing a “dictionary article”, but nevertheless provides some definitions *via* some of them. A year later the Ministry of Culture adopted the Manual of Definitions pursuant to the law, with a total of 102 definitions. Along with the non-exhaustive list of creations that are considered works, for the first time it is recognized the protection of each part or element of the work, like a character, or the title of the work only if it represents an intellectual creation, or when it is used for a particular work, will not be used for the same kind of work if this title creates confusion for the author of the creation.

Even the 2016 law based on the principle of automatic protection, avoiding any requirement for formalities, it also provided for the registration of the works on volunteer basis and explained the importance of registration and certification from the Directorate of Author’s Rights (*DDA*). This is a strategy to encourage the registration, as a public record which help asserting the author’s rights and can have positive impact in preventing the works from being orphan. The procedures are simple and last for not more than 45 days from application and the registration fees are reasonably affordable.

Regarding the personal non-property rights the actual law has defined them in 4 articles, explaining each of them. The right of withdrawal, unlike in the previous law, is widely

explained included the procedure and the terms it can be exercised. At the end of the same article, in only a paragraph are declared the characteristics of the personal non-property rights of the author as they: “*are not subject to resignation, are non-transferable, licensed, negotiable, and are inexhaustible*”. The property rights are divided in exclusive property rights and other property rights, each of them explained in different articles. The article on the *droit de suite*, expressed as the resale right properly using the EU Directive’s terminology, provides that the resale price must not be less than the equivalent value in ALL of 500 EUR, in order for the resale right to be claimed. The value of 500 EUR implies the net price, excluding VAT or other fiscal obligations. The highest royalty rate is 5% and the lowest 0,25% of the price. The Albanian scheme of the resale right royalties follows the logic that the percentage decreases as the resale price increases. The total amount of the royalty, belonging to the author, may not exceed 12 500 EUR.

The term of protection remains the same, except of the neighbouring rights and *sui generis* rights from databases. The 2016 law offers protection of property rights of the works already in public domain, if a person:

- publishes for the first time in a lawful manner or lawfully places a previously unpublished work at the disposal of the public. The term of protection shall be 25 years from this moment.
- publishes a critical and scientific publication of a work that has become part of the public domain. In this case the term of protection shall be 30 years from the date of the first lawful publication.

The protection of the property rights of this person are like the protection the law guarantees for the author of the work.

The new law contains explains in detail the publication contract and also provides for two different types of contracts in order to realize an audio-visual work: (1) the contract of audio-visual adaption and (2) the contract of audio-visual production, in which shows up the *quasi*-complete transfer of economic rights to the audio-visual producer, who holds the whole responsibility of realizing the audio-visual work.

The management of author’s rights and neighbouring rights is possible to be realized both individually and collectively, but the actual law defines that different rights must be managed only in a collective way by CMOs. The relationship between the author and the CMO begins with a contract. The creation, the activity, and the responsibilities of CMOs are provided by law. Their activity is transparent and monitorable.

ZSHDA is “transformed” in DDA. According to the new law, the way DDA is organized and its provided competencies, is expected for an efficient activity and less bureaucracy.

DDA proposes and implements the appropriate strategy and policy for the protection and enforcement of author's rights and is the representative body of the Republic of Albania with the authority to cooperate with similar foreign bodies. There is an important role of *DDA* regarding the licensing and monitoring the activity of CMOs. So, *DDA* examines the application documents and proposes to the Minister the licensing of the CMOs, keeps their records and supervises their activity. Also, *DDA* keeps and adjourns the records of voluntary registration of creations, the works that fall into the public domain and other important data for CMOs and users.

The 2016 law has created a new specialized body, the National Council for Author's Right (*KKDA*). *KKDA* is collegial decision-making and advisory body, composed of 5 members with a four-year mandate. Its activity is focused on the cooperation with the authors, CMOs and representative's associations of users. The mission of *KKDA* is to guarantee and protect right holders regarding the royalties for the use of property and non-property rights in the intellectual market. Through its specifically regulated activity it is possible to certify and publish the fees for the users, as a transparent process, guaranteeing competitive and escalating fees depending on the level of use, and also the purpose of exploitation of intellectual products. The new NPEI 2018-2020 recognized the successful and constant activity of *DDA* and the creation of One Stop Shop system by *KKDA*, called S.U.A.D.A, which activity is the collection of royalties to distribute than to the 4 CMOs, and further to the rights holders.

For the first time there are recognized the technological measures and the way they must be used, to be effective. The authors, performers and executor artists, producers of phonograms or audio-visual works, audio-visual media service providers or database producers can create, use, and control these measures to protect their rights.

The 2016 COM Report recognized the progress made, but after the adoption of the new law highlighted the need to ensure the implementation of law and to improve the functioning of CMOs and the payment of royalties to rights holders. The COM Report of 2018 and 2019 encouraged improving the functioning of CMOs and the payment of royalties to rights holders, while mentioned the amendments of Criminal Code to refine the legal mechanisms and better address copyright infringements and the establishment of State Inspectorate for Market Surveillance since 2016 and its responsibility for inspecting, controlling, and enforcing copyright and related rights. These reports highlighted that Albania actually has some level of preparations regarding IPRs but suggested further improve to the functioning of collective management agencies and the payment of royalties to right holders.

Conclusions

In almost three decades the situation in Albania, regarding IP rights and more specifically

the author's rights, has changed a lot. There has been a real improvement in recognizing, guaranteeing, and enforcing both personal non-property rights and property rights of authors and other subjects who benefit from neighbouring rights.

Although there has been adopted three laws, each of them has marked a positive result of the legal efforts of Albania in the field of author's rights. Except for the fact that each subsequent law has definitely been an improved and more complete variant of the previous law, each of them at the time of their adoption has made significant innovations aiming and helping that the legal situation in Albania to be similar to that of the EU. Also, Albania has not hesitated to become part of international organizations, conventions, and treaties of IP.

Albania has a new law, which has been adopted after a period of two years of preparations and consulting, "*harmonized at the highest possible rate in Albanian jurisdiction*" with EU Directives. The Council of Ministers has adopted some decisions as well for the further and fast implementation of the 2016 law. There are some priorities that the new law considers, such as: (1) the guarantee of legal certainty that each right holder to maximize the exploitation of his rights through the variety of forms offered by the digital era, (2) the implementation of a transparent process of approving and collecting fees and distributing royalties, (3) the definition of the legal status and responsibilities for state bodies, determining their respective roles, in order to enforce the law and to minimize the violations of author's rights and (4) the strengthening of controlling and monitoring of application of coercive measures. So, the main and final aim of the law is to achieve the EU standard of protection of author's rights by creating a healthy environment for creation, development, and investments.

There are some issues that must be considered important to work with, such as promoting the activity of CMOs. But, the most delicate issue, which require dedication constant work and long time to be solved, remains the raising of the public awareness. With all the measures that the law provides and all the informative and training campaigns of DDA, much time is needed for the Albanians to offer attention and support to the author's rights, so that to be possible to be compared with the standard of awareness of EU citizens.

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About Author

Ergysa IKONOMI is a Lawyer and Lecturer at “Ismail Qemali” University of Vlora, Albania. She holds a Doctorate in Contract Law. Her research is focused on Intellectual Property Law, especially on the protection of author’s rights. She has published in various academic journals and has participated in many international scientific conferences. She has also published two books which are used as basic literature in university.

E-mail: ergysa.ikonomi@univlora.edu.al, ORCID: 0000-0001-8071-4916

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