

4 COPYRIGHT LAW: IMPACTS ON URBAN SHAPING

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ABSTRACT

This paper discusses the impact of copyright law on developments in modern architecture. Further, this paper examines how copyright law shapes the urban environment and its influence on architecture. The fundamental purpose of copyright law is to promote creativity and thus contribute to cultural development. The conflict between moral rights of the author and private property rights defines the extent of copyright protection of architecture. Architectural art is specific compared to other areas of creativity such as literature, music and science. The main challenge of determining the appropriate scope of copyright protection of architectural works stems from two separate absolute rights: authorship and ownership. The paper uses a comparative legal approach based on research from legal and case studies to explore the nature of copyright protection of architectural works.

Keywords: copyright law, architecture, urban shaping

I. INTRODUCTION

*'The invention of the printing press is the greatest event in history ... The book was to kill the building. The lead characters of Gutenberg succeeded the stone characters of Orpheus.'*¹

In *This is Not the End of the Book* Umberto Eco pays attention to the correlation between books and the 'stone bibles': what he calls architectural works. The thought by Victor Hugo expresses concerns in an era of emerging new technologies – the printing press, and the effect that this technology would have on the architecture – the major cultural media at the time. The invention of the printing press and books as the new information carrier replaces 'in an inexplicable way' architectural works in the culture medium. Eco, however, points out the groundlessness of such concerns and draws a parallel between books and architecture and e-books and books (classical). Eco's idea is that the new information carriers (media) and culture will continue to coexist – books and architecture, and Internet and books. New technologies, however, will change the medium, including the legal medium. Architecture does not disappear because of the advent of the printing press, although the advent of the printing press changes its essential place in the cultural development of societies.

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¹ Victor Hugo, *Notre Dame de Paris*, Book Five, Chapter Two.

Legal standards for the protection of human creativity, significantly influenced by the invention and development of printing, regulate the development of the modern architectural environment and architectural creativity. How do modern copyright laws regulate the stone bibles (architectural works), which continue to be one of the main carriers of cultural identities? This paper explores the impact that copyright laws and authors' protection have or could have on architecture as an art piece, a result of human creativity and a carrier of cultural identity.

Architecture and society exist in close interdependence.² Architectural works and the shape of the urban environment are carriers of cultural tradition, information and a factor that affects society and transforms its values. Copyright laws and regulations influence this process.

II. ARCHITECTURE AS A SUBJECT OF COPYRIGHT PROTECTION

Architecture as protectable by copyright law remains controversial despite rich cultural traditions embodied in architectural works. Architecture combines two major functions: aesthetic and utilitarian. This dualistic perception of architectural works, based on a combination of useful features and aesthetic values, is related to the shaping of the urban environment. Architecture is the determinant factor in urban shaping; everyone is forced to encounter architectural structures more often than other art forms. Thus, the aesthetic impact of art architectural forms is comprehensive.

Architectural work presents a unity of tangible and intangible elements, intellectual product and material value. This dual essence of architectural works reflects on the regime of their protection under copyright law. Completed works of architecture receive copyright protection under the Berne Convention for the Protection of Literary and Artistic works.³ Article 2, paragraph 1 of the Berne Convention (determining the scope of protected works) specifically mentions three-dimensional works relating to architecture. Article 4 declares that conventional protection applies to architectural works built in the member countries of the Berne Union, as well as works that are incorporated in such architectural works.

The United States had long refused to provide copyright protection to architectural works. This status quo remained until 1990 when, as a newly acceded member of the Berne Convention, the United States began granting copyright protection to architectural works.⁴ The legal definition in US legislation specifically excludes protection to so-called standard elements of architectural works. In US jurisprudence and legal theory, the accepted view is that a two-step test should be applied, in order to determine whether a particular architectural work is subject to copyright protection: (1) the presence of originality; and (2) architectural decisions that are not dictated solely by the utilitarian (use) of the architectural work.

² Walter Gropius claims that 'Architecture in a broad sense is a logical expression of the main states of society.'

³ Sculpture Act 1798 UK is the act which first granted legal protection to three-dimensional structures and forms of art in history. This act protects the art of making models and statues of human figures and animals. The adoption of this act is crucial in expanding the scope of works that are protected by copyright - for the first time the boundary between two- and three-dimensional works was removed in providing legal protection.

⁴ Title 17 USCA, Section 101 – Definitions.

In Australia copyright protection of architectural works⁵ is provided. Architectural works are defined as a structure of any kind. Almost all kinds of architectural works are protected according to Australian copyright laws, including factories, garden structures and all kinds of facilities. In the cited legal definition, it is explicitly stated that the artistic, aesthetic quality of the architectural work is irrelevant for granting protection to the author. The architectural work is subject to copyright protection if it meets two requirements: (1) originality; and (2) material form. The requirement of originality is a condition that the subject of copyright protection not be a simple repetition of an already known work. Originality is not understood as a novelty but as an expression of the creative process, whether the result is of high artistic and aesthetic value or not.

III. COPYING IN ARCHITECTURE

The legal definition for reproduction (copying) according to Bulgarian copyright law⁶ reproduces the conventional notion of copying. Reproduction of architectural works raises several serious legal problems. Creativity in general and especially creativity in architecture is not necessarily associated with lack of copying. In this sense, it is appropriate to recall legislative decisions in Australia.

Bulgarian law provides definitions of both direct and indirect multiplication of a copyrighted work as forms of reproduction (copying). Architectural works as the works of fine arts are usually created in a single copy – original unlike most of the other copyrighted works. Repetition of an architectural work constitutes the copying of already completed buildings or structures. Copying of architectural works, irrespective of the manner, constitutes a realization (generation) of one or more exemplars of the work. Usually in architecture, economic factors influence the difficult determination of whether an architectural work will be reproduced; the creation of original architectural work that leads to the creation of tangible copies is a relatively rare practice. Significantly, from a legal perspective, Bulgarian Copyright Law states that parts of architectural works are considered a subject of copyright law protection. Therefore, the multiplication of one or more copies of part of a building or part of a structure, or the creation of a product that is a fusion of architecture with another work of art is an act of reproduction.

In accordance with Bulgarian law, there is no exception regarding the means of expression for architecture. The expression of protectable works must be objective; it has to be objectified in reality. For example, the construction (expression) of three-dimensional structures uses the expressive means of 'architectural language'; the creation (expression) of computer programs uses a combination of certain programming languages; works of literature are expressed through combinations of language elements; brush strokes, colour stain and texture of the paint are means of expression in the art of painting. The specific means of architectural language, the lines and surfaces of volumes, allow artistic possibilities of architecture for abstract transformation (recreation) in the art.

To return to the thoughts of Hugo and Eco cited above: currently, human societies face another shift – from printing copies to Internet copies – and thus the legal protection of

⁵ Copyright Act 1968 as amended, Section 10, definition of an artistic work – 'a building or a model of building whether the building or model is of artistic quality or not'.

⁶ 'Directly or indirectly duplicating the work or part thereof in one or more copies, in any manner and in any form whether permanent or temporary, including the digital storage of the work on an electronic medium.'

creativity must meet the challenge of adequately responding to such transition. One possible lesson for the reformation of copyright law is to consider the characteristics of architectural art and urban shaping, its copyrights protection, and the possible parallels between both transitions: from architecture to books and from books to the Internet.

IV. ON AUTHORSHIP IN ARCHITECTURE

Architectural works and the urban environment reflect cultural values as part of the cultural processes in society, and the cultural tradition, but also contain future cultural values and cultural heritage of the communities. The sustainability of architectural works in time and space determines the role of the architectural environment as an important carrier of the cultural memory of societies. The basis of the comprehensive impact of architecture is a continuous creative process that includes shaping the architectural idea to the realization of architectural work. The debate in architectural theory of the essence of the architectural creative process comprises two overlapping, main concepts: focusing on the utilitarian features of the architecture and the view that highlights the leading role of creativity in architecture.

The question of authorship in architecture and especially the question on the moral rights of the author in architecture and urban shaping are essential. Protection of moral and material interests of authors of literary, scientific or artistic works is a part of the fundamental principles of human rights adopted at the international level.⁷ The Berne Convention defines the principle protection of moral interests of authors through the text of Article *6bis*.

The core of the moral rights of authors is the right of authorship and the right of integrity of the work, which are generally accepted and enshrined in the text of most modern copyright laws. The right of authorship reflects the author's interest to be identified and to attain recognition for the link between the author's personality and the creativity of the architectural work that is protected. The authors-architects have significant moral interests in the link between their creative and personal qualities and a concrete architectural work to be legally recognized. The authorship is linked to the right for the name, nickname or other identifying sign of the author to be placed on the creative work. These moral rights, which are closely related to the personality of the author-architect, are eternal and inalienable.

V. MORAL RIGHT OF INTEGRITY OF ARCHITECTURAL WORK

The right to protect the reputation of the author is a term (concept) adopted in the Berne Convention designating the right of the author to preserve the integrity of his or her work and to oppose eventual alterations.⁸

In countries that adopt a civil law tradition⁹, the focus is on the legal protection of the moral interests of the author and on the relationship between the artist's personality and work.¹⁰

⁷ M Vivant, 'Authors Right, Human Right' RIDA-1997 No 174, p 60-122, Article 27, paragraph 2 of the Universal Declaration of Human Rights establishes a universal high standard of protection of moral interests of authors and Article 15 paragraph 1 of the International Covenant on Economic, Social and Cultural Rights.

⁸ The text of Article *6bis* uses the term 'honor and reputation' as a compromise between the participants in the Berne Union .

⁹ France is an example.

According to Geller¹¹, reputation, together with certain items, is included in the patrimony, which the author is legally empowered to control. Geller sees the reputation itself as an extension of the personality of the author.

Australian copyright law governs the moral right of integrity of the works subject to copyright law protection.¹² According to the normative text, the author has the right to integrity of authorship in respect of the work. A part of this right is the possibility for the author to oppose any 'derogatory treatment' of the work. This moral right is associated with the personality of the author, who is the only possible right holder.¹³

VI. RATIO AUTHOR - OWNER - SOCIETY IN ARCHITECTURE

Architecture is the intersection of art and aesthetics with significant material interests. The creative process of architectural works usually focuses significantly on economic factors, which often shifts the emphasis away from creativity. In some cases, economic factors interfere with the liberty of the architect as an author of creative work and thus with the author's rights.

In architecture (as art and as science) the issue of fair balance between an *author - owner - society* has always been raised. This balance is essential in copyright law protection of architectural works and the exercising of individual rights. From the very beginning of architecture, the *artist-owner-society* relationship reflects the biggest conflict of interests that is potentially concentrated in the architectural work itself. The creators of the architectural work invest effort and creativity and their interests should be adequately protected by the law. The ownership of architectural works, either public or private, represents property rights that are closely connected with the material value of the architectural work. Architecture, unlike literature or music, creates problems in copyright law precisely because with architecture, the focus is different and reflects contrary interests: public and private, the author's moral rights and the owner's property.

¹⁰ Defining the legal nature of the relationship between the author's personality and his work is a subject of theoretical debate. Personalist theories associated right of integrity of the work with *the persona*. *Persona* is the external expression of an individual, the perception of the individuality of the community. In this sense, the right to integrity of the work or the right of the author's reputation is accepted as legal protection of the public identification of the author, through his work. Copyright law in Europe, which is significantly influenced by the theories associated the protection of works with the element of personal participation of the creator.

¹¹ P Geller, 'Must Copyright be Forever Caught between Marketplace and Authorship Norms', in B Sherman – Of Authors and Origins, Oxford, 1993.

¹² Article 195AI, Copyright Act 1968.

¹³ Australia has exemplary case law and practice in the enforcement of moral rights of authors of architectural projects and works. It is noteworthy that a legal dispute in connection with the world-renowned architecture works (Sydney Opera House) is one of the essential factors leading to legislative amendments to the concept of moral rights in Australian law. For more details, see Matthew Rimmer, 'The Garden of Australian Dreams: The Moral Rights of Landscape Architects'. Fiona Macmillan, Kathy Bowrey, *New directions in Copyright Law*, Volume 2 Cheltenham, UK 2006,134-171.

VII. PRIVATE INTERESTS – THE CONFLICT BETWEEN THE AUTHOR AND PROPERTY RIGHTS IN ARCHITECTURAL WORKS

The clash of interests of the author and owner is also seen in other visual arts, but it is particularly clear in architectural works and urban shaping. Often the author's countering interest, the interest of the user, is actually the interest of the owner of the physical object that embodies the copyrighted architectural work. Therefore, two absolute rights, namely the right of the author and the property right are opposed. Thus, the conflict of the absolute rights of the author and owner is the main problem with the author's protection of architectural creativity. Roman law principle holds that the owner is free to use his or her property as desired; this is the idea of classic property. The concept of moral rights of authors arose in a more recent historical period and despite its relative novelty, reflects the principles that embody serious moral interest. The conflict between the moral interests of authors and the property interests of owners of architectural works, in this sense, clearly reveals the relationship between classic and intellectual property law in the modern world. One type of the property is fixed on a tangible object, and the other on the work embodied in the material. Another theoretical level of conflict is the relationship between moral interest and material interest.

VIII. THE PUBLIC INTEREST IN ARCHITECTURAL WORKS AND THE ARCHITECTURAL ENVIRONMENT

Architecture implicates the individual rights of authors, the individual rights of owners and public interests of the society. The public interest in architecture in view of copyright law protection may be considered from two perspectives:

- The interests of society, driven by daily contact with the urban medium;
- The public interest as affected by the immanent presence of the urban medium and architectural works as key elements of cultural processes in society.

Copyright law provides limitations driven by public demands for cultural development and access to arts, science and literature on the exercise of an author's rights. Le Corbusier defines the 'intensive growth of the private interest of the early industrial age' as the main reason for reduced attention to public interest. The Athens Charter of 1933 provides that private interests will be subordinated to the public without considering total dependence and subordination of social needs.

Thus, the protection of public interest is linked to the adequate protection of individual rights of creators of architecture, understood as an initial stage in the existence of architecture as part of the culture of society. Cultural developments in society are directly dependent on the stimulation of individual creativity.

IX. RESOLVING THE CONFLICT BETWEEN THE RIGHTS OF OWNERSHIP AND RIGHTS OF AN AUTHOR IN THE ARCHITECTURAL WORK

Architectural work involves the interests of the author, the owner and the public interest. This conflict of interests is resolved in various ways in different countries by means of legislation or by case law.

Notably, an absolute requirement for the author's consent in case of the alteration or demolition of an architectural work is a highly burdensome obstacle in the exercise of property rights of the architectural work. Such an absolute requirement is also not consistent with architectural practice. This is also a principle position stated in a WIPO Study on the rights of authors in works of architecture.¹⁴ The criterion of necessity is a leading element in the cited study, as it is recommended that the author not be excluded from the processes of eventual modifications of an architectural work. However, the relationship between the author-architect's personality and the author-architect's work should be taken into account, and a fair balance among individual interests, the interests of owners and public interests of cultural development and cultural values should be sought.

As shown by case law and different legal approaches to resolving the conflict between the author's moral rights and the owner's property rights, it is impossible to formulate a general rule applicable in all legal systems. From the perspective of the concept of balance of interests, the interest of the owner of the physical object usually prevails.

Owing to recent changes in the Bulgarian Copyright Law of 2010, a requirement was introduced for the owner of the architectural work intending to alter or demolish it to consult with the Professional Association of Architects – Union of Architects in Bulgaria. Until 2010, the copyright regime that allowed the owner to demolish or reconstruct an architectural work, without consulting the author or Union of Architects, was in force.

In the United States, a text concerning the alteration and destruction of works of architecture¹⁵ is in force, whereby the owner of the building embodying an architectural work may modify or destroy it without the consent of the author of the architectural work. Winick¹⁶ states that there are other legal means other than copyright law for the protection of architectural works with artistic and aesthetic value, namely, local legislation and regulations for the protection of cultural heritage.¹⁷ The parallel implementation of acts is considered to be a sufficient legal guarantee for the artistic and aesthetic forms embodied in the architectural works with social and cultural value.

Australia has introduced a precise legal procedure that respects the interests of both the property rights of owner and moral interests of the author of the architectural work. On a normative level, a compromise is achieved that respects both the moral interests of authors and the property rights of owners of an architectural work. The essence of the normative text is the obligation of the owners to consult and negotiate concerning planned alterations or demolition of copyrighted architectural work.¹⁸ The essence of the legal norm is that the owner of an architectural work should inform the author in writing of its intention to alter, move, demolish or destroy the building and carry out mandatory consultations with the author of the work.

¹⁴ Opinion of WIPO <http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=75696>.

¹⁵ Title 17 USCA, Section 120b.

¹⁶ R. Winick, 'Copyright Protection for Architecture after Architectural Works Copyright Protection Act of 1990', IPLR, New York, 1994.

¹⁷ Title 17 USCA Section 301, b 4 'Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to — (...) State and local landmarks, historic preservation, zoning, or building codes, relating to architectural works protected under section 102(a)(8).

¹⁸ Article 195AT 2A, Copyright Act 1968.

In Italy, which follows the civil law tradition, the problem of the conflict between property rights and moral rights of integrity of the architectural work is resolved in an interesting way:

However, in the case of works of architecture, the author may not oppose modifications deemed necessary in the course of construction. Further, he may not oppose other modifications which may be necessary in any such completed work. However, if the work is recognized by the competent State authority as having an important artistic character, the author shall be entrusted with the study and execution of such modifications.¹⁹

The above legal solution may be considered a successful example of resolving the conflict as apparently the interests of owners of architectural works and the interests of authors and public interest are taken into account. This rule establishes the aesthetic value or artistic quality of the architectural work as a criterion for granting the author the right to participate in the modification of the architectural work. In this way, legal certainty is submitted on a sufficient level, since the requirement for the artistic character of the architectural work is for it to be recognized by a public authority.

X. THE EFFECTS AND IMPACTS OF COPYRIGHT LAW ON CONTEMPORARY ARCHITECTURE – SOME EXAMPLES IN BULGARIA

Examples that illustrate the role of copyright law and, in particular, the normative solution of the conflict between author and property rights, as determined in Bulgarian legislation prior to 2010, are discussed below. It should be noted that until 2010 Bulgarian Copyright Law provided a norm, according to which the owners of architectural work could destroy and modify their building without notification or consultation with the author and without taking into account the right to the integrity of the work.

An emblematic example of the impact of copyright law provisions, or rather the lack of guarantees from the copyright on contemporary architecture, is the destruction of the Mausoleum (of Georgi Dimitrov) that took place 61 years after its construction.²⁰ Of course, the destruction of this architectural work (described as the centre of totalitarian cult in Bulgaria in the communist era) was based also on many other complex reasons. With no doubt, the cultural and aesthetic value of the mausoleum would have an influence on the discussions on its eventual destruction, if a rule similar to that adopted in the Italian legislation was in force in Bulgaria. Consultations with the authors of the architectural work (as prescribed in Australian legislation) or consultation with the Professional Association of Architects (which is incorporated in the adopted version of the Bulgarian copyright law in 2010) could have altered the decision to destroy the mausoleum. Opinion of the destruction of the mausoleum is still ambivalent in Bulgarian society and is associated with purely aesthetic dimensions of the problem: the replacement of the mausoleum, a building with obvious aesthetic value (even with conflicting historical dimensions), with a parking lot and an empty garden space. Copyright law protection, since it presumably concerns relatively new and modern architectural works, should have a more balanced role in view of public interest.

¹⁹ Article 20 of the Italian Copyright Law (No 633 from 1941).

²⁰ It is noteworthy that the Mausoleum was built in six days in 1949, and it took six days for its demolition in 1999.

The protection of buildings and architectural works, which form the cultural identity of the society in Bulgaria, is covered predominantly by the rules of cultural heritage law.

Additionally, another legal issue could be identified: the modern Bulgarian law on cultural heritage contains a provision, according to which cultural values may not be established as cultural objects unless 50 years have passed from the moment of its creation. This leaves a certain group of works in a very delicate situation. These are the works of contemporary architecture, which although protected by copyright law and having obtained respective value or possessing high artistic and aesthetic value for a community, could not receive protection under the cultural heritage law. In this case, the above position of Winick, namely that an alternative protection over architectural works and urban environment is available through cultural heritage laws, cannot not be justified.

Another case, which refers to buildings of architectural value, although of local importance, concerns the building of Janitza, constructed in 1972. This architectural work, according to some estimates of leading Bulgarian architects, has architectural value and is an expression of specific fusion architecture characteristic of so-called totalitarian architecture. However, the same building has undergone many changes and renovations in the period after 1990, which are considered to be inconsistent with the overall appearance and architectural style. The architectural works receive copyright law protection and thus the application (implementation) of the Italian or Australian model for guaranteeing the moral right of integrity of the author could ensure that the aesthetic and cultural value of the architectural work is retained.

Significant reconstructions and interference in urban shaping have been widespread in Bulgaria during the last 20 years. There are numerous examples of architectural works in which the appearance and character were irreparably harmed. Further, with regard to the buildings, architectural ensembles and cities that are declared cultural heritage, priority is given to the cultural heritage legislation. In modern architecture and urban shaping, priority should be given to the copyright law. In this particular category of architectural works, modern architecture, the risk concerns mainly the so-called models of totalitarian architecture and brand new works.

This trend is not exclusive to Bulgaria. In recent decades on a global scale, the specimens of modern architecture established after World War II are at risk to a greater extent than architecture from any other historical period. In the view of the international organization, DOKOMOMO, specializing in this field, in the late 1980s most of the specimens of modern architecture had already been completely destroyed or altered beyond recognition. However, a major factor influencing contemporary architecture is that many of these architectural works were not perceived as monuments of culture and cultural heritage. In this sense, Bulgarian cultural policy conforms to the standard approaches and understandings prevalent in Europe during the 1980s. With regard to modern architecture, copyright law could constitute an adequate instrument for adequate impact and protection. Many of the works of modern architecture could be regarded as objects of copyright law protection. The proposal to broaden the moral rights of the author of an architectural work maintains the balance and does not considerably affect the interests of owners, and is also consistent with current legal trends of modern States in Europe and Australia.

This position takes into account the concept of balance of interests between the creators (authors), owners (users) and the public. Architecture forms a significant cultural capital and its sustainable development is one of the main directions of European cultural policies. Meanwhile, the moral rights of authors could be one of the remedies for sustainable cultural development and sustainable architecture, taking into account that comprehensive measures in various legally regulated areas are necessary. The urban environment and architectural space as part of the culture should be protected, and the same applies to the rights of their authors. Proper protection of the moral rights of authors of architectural works is an essential element in the overall strategy for the cultural development of society and the evolution of cultural processes and values, along with legal protection of cultural heritage.

XI. COPYRIGHT AND CULTURAL HERITAGE IN URBAN SHAPING

In most cases, copyrighted architectural works are transformed into cultural heritage and their legal status aggregates two main types of subjective rights: rights connected to its status of cultural objects, and copyright law protection, which applies 70 years after the death of the author or authors.

The objectives of the copyright law are not limited to the protection and promotion of economic advantages for authors and holders of exclusive rights of the architectural works. The cultural dimensions of copyright law are expressed in the nature of the protected works: architectural art that is an intrinsic part of the cultural identity. The role of copyright law provisions in the field of culture is clearly expressed by the protection of moral rights of authors and architects. From this perspective, the individual moral interests of authors of architectural works often coincide with the broader public interest in architecture and culture, and promotion and access to knowledge. The establishment of an adequate legal protection of the moral rights of authors, architects and their implementation is a factor in fostering creativity in architecture.

This approach has been successfully introduced in Australia, which presents impressive examples of the author's protection in architecture, and in many European countries. Italian copyright law also protects the moral rights of authors and thus the cultural significance of the author's work. This approach reflects the undeniable link between the position of individual creative effort and contribution of the author - architect and public interest in culture. The necessity to protect the moral interests of authors in architecture is one of the arguments raised on the need for serious reforms in the European legal framework on copyright issues.²¹ The necessity of unification of the *acquis communautaire* in the field of copyright law is considered to be a way to help the economic return on creativity as the activity that forms the cultural capital of society. Some of the arguments for reform of the European legal framework relate to the need to protect public interests in culture through protection of moral rights of authors and architects in particular.

Essentially, the issue of the scope of moral rights of authors-architects could be identified in terms of individual moral interests of the author and not material reward. The author's reputation and the author's ability to exercise some control over the created architectural work are an expression of the correlation persona-author. Therefore, adequate legal regulation of the moral interests of authors is for the benefit of the individual interests of authors, but also for the benefit of the public interest for cultural development. Copyright law of course could

²¹ H Macqueen, 'Copyright Law Reform – Some Achievable Goals' (2006) London.

not replace instruments of public law for the protection and safeguarding of cultural heritage. Subjective rights are an instrument to protect and promote individual creativity essential for cultural development.

Copyright laws generally provide protection that is limited in duration and connected to a specific starting point and a specific author. After a certain period, copyrighted works are 'released' to the public domain and become available to the public. One of the guiding principles of copyright law is to protect both the author and authorship and the public interest in access to knowledge. Cultural heritage and laws have, on the other hand, their focus on the public interest and not on individual interest and usually follow (in temporal terms) the emergence of authorship in copyrighted work. Whilst copyright laws restrict the use of works in favour of the author (i.e. the public interest is restricted in favour of the individual interest), cultural heritage law has set a limitation on individual interest in favour of the public. The above description is valid in the classical conflict between private and public interests in relation to copyrighted works. This conclusion is not true, however, with regard to architectural works, which are usually created as originals and the creation of multiple copies (on a scale comparable to literary, musical or other works) is practically impossible. Thus, the preservation of copyrighted architectural works is effectively the problem of the protection of the author and the public interest, both of which are often interlinked (particularly in cases of cultural/aesthetic value of the architectural works, versus the interests of the owner of the architectural works).

XII. THE ROLE OF COPYRIGHT LAW AND ARCHITECTURAL CREATIVITY

The Athens Charter of 1933 outlines some important problems associated with creativity in general and creativity in architecture specifically. Emphasis is placed on the need to balance the interests among key actors in the creation of an architectural work. The postulate of the Charter corresponds to the modern principles of sustainable architecture: respect of the interests of modern society and responsibility for the interests of future generations.

The need for a fair balance among individual interests of the owner/investor/user, the author of the architectural work and the interests of society could be examined in light of the legal basis of the moral rights of architects. The moral rights of authors of copyrighted architectural works protect, in a narrow sense, the creator's interests related to the creator's professional ability and reputation in society. In broad terms, the moral right of authors of architectural works represents a guarantee of artistic freedom, cultural development and sustainable architecture. The right of authorship and integrity of the work constitute a guarantee for the preservation of modern architectural forms that shape and create, along with architectural heritage, the urban environment. In this sense, the precision of restrictive texts governing the right of integrity in the direction of enhanced author involvement in reconstruction, alteration or demolition of architectural works, is an attempt to follow the trends proclaimed by the Athens Charter and modern instruments in an architectural field. Postulates of the Athens Charter are valuable evidence of attempts to protect sites of modern architecture, which attempts began simultaneously with its formation of modern architecture as a part of art.

XIII. CONCLUSION

In conclusion, it should be emphasized that the concept of art in architecture includes architectural heritage and contemporary artistic forms in architecture. Some of the risks to

modern architecture in Bulgaria that shape the urban environment could be overcome by the overall protection of moral and economic rights of the participants in the architectural creation. The concept for balance of the interests among author, owner and society, found both in the legislation and case law, reflects the current trend in the relationships of objects with copyrighted architectural works.

The balance between the significant material interests of the participants involved in the architectural and construction process (investor, owner) and the moral and economic rights of creators of architecture is essential for modern copyright law. The possibilities of architectural heritage and contemporary architecture in the formation of cultural capital are undeniable. In architecture, cultural capital is highly concentrated and in the public interest. Adequate copyright protection of the moral rights of authors of architectural works is an essential guarantee of the cultural role of architecture and for preserving the balance of interests implicated in architectural works. The protection of architectural works in Australia and Italy is an example of the interconnectedness of precise normative regulation and extensive case law in developments in architecture.

Appropriate copyright law is an element of adequate cultural policies that take into account the individual interests of authors and owners and the public interest in preserving and protecting the culture. The modern urban environment is shaped by architectural heritage and modern architecture, some of which are copyrighted and are potentially of cultural value and at least participate in cultural processes.

Architectural works are a unique example of the combination of tangible and intangible property and classic and intellectual property. The study of copyright law protection and architectural works allows an understanding of trends in intellectual property from a new perspective.

This paper could eventually be extended to include the effects and trends of reforming copyright law based on a comparative analysis of architectural works regimes and regimes based on the new carriers of information and new technologies.

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