

Limitations of Copyright in the Legislation of the Republic of Serbia

Copyrighted work constitutes an original creation of the author, expressed in a specific form, irrespective of its artistic, scientific, or other value, purpose, size, content, manner of expression or the permissibility of public disclosure of its content.

The rights of authors of literary, scientific, professional, and artistic works are regulated by the Copyright and Related Rights Law ("**Law**"), which regulates the exercise and judicial protection of copyright.

Legal basis and types of limitations of copyright – Rights subject to limitation

Although the Law guarantees certain moral and economic rights of the author, there are circumstances under which these rights may be limited or suspended in the interest of society. Such limitations are necessary to protect public interest, facilitate freedom of information, education, and cultural development, while also safeguarding the legitimate interests of authors.

The Law, drawing upon fundamental principles and limitations set forth by *the Berne Convention*, prescribes circumstances under which use of copyrighted works may be lawful without the author's consent and without payment of remuneration. Having this in mind, it is essential to note that only economic rights may be suspended, whereas moral rights - such as the right to claim authorship and to object to derogatory treatment - must be always respected and cannot be suspended under any circumstances.

Situations in which the author's subjective rights are suspended may be categorized as **suspension of exclusive rights, remuneration rights and suspension based on statutory licensing**.

The distinction between these types of suspension is that statutory licensing permits the user, in this case licensee **to use the copyrighted work without the author's authorization but obliges payment of remuneration**, whereas suspension of exclusive rights and remuneration rights permits use **without payment and without authorization**.

Where exploitation of a copyrighted work is based on provisions of this Law concerning copyright limitations, the name of the author and the source from which the work was obtained must be indicated. Moreover, the scope of limitations on exclusive rights must not conflict with the normal exploitation of the work nor unreasonably prejudice the legitimate interests of the author or rights holder.

Principal cases of copyright suspension

Copyright suspension is primarily anticipated in relation to reproduction and communication of works for the **purposes of proceedings before state and judicial authorities** aimed at ensuring public security. This form of suspension reflects a precedence of public interest over private interest, as well as the necessity for social security and the establishment of the rule of law.

Compared to other limitations, this suspension gives the least legal uncertainty due to the precise, unequivocal formulation by the legislator.

Further, suspension is provided for **reporting on current events** without the author's consent and without remuneration, including:

- Reproduction of works forming an integral part of the event (e.g., photographs, speeches);
- Reproduction of short extracts and summaries of newspaper articles;
- Use of political, religious, and similar speeches delivered in public places;
- Free use of daily news information.

Such suspension must not be misused, and remuneration rights remain suspended only insofar as the use is justified and consistent with the purpose of reporting.

For the purposes of **non-commercial teaching and education in schools and universities**, the Law permits without remuneration:

- Public performance and presentation of published works during classes and school events (provided performers receive no remuneration and entry is free);
- Broadcasting of school program content by technical means within the educational institution.

The Law also provides suspension regarding **reproduction of copies of published copyrighted works for personal, non-commercial use** - however, this does not apply to computer programs and databases, musical scores, or entire books unless copies of the book have been sold out consecutively for two years, as well as in other cases prescribed by the Law.

Suspension further applies to **quotation of copyrighted works, transient or incidental reproduction without separate economic significance, reproduction of copies of works by persons with disabilities** when related directly to the disability. Additional specific suspensions are prescribed by the Law.

The extensive list of exceptions creates complexity in determining whether specific uses fall under suspension or constitute infringement of the copyright rights.

Accordingly, rulings on this matter are an essential reference point regarding the scope and limits of interpreting such suspensions.

Pursuant to the judgment of the Court of Appeal in Belgrade, case Gž 4 87/2017 (2) dated 30 August 2017, suspension of exclusive and remuneration rights under Articles 41 and 43 of the Law **does not apply to public communication of photographs that are not integral to the reporting of a current event**. Specifically, if the photograph is used as a peripheral curiosity unrelated to the core substance of the event, its use is incompatible with the purpose and method of reporting, and thus suspension cannot be justified.

Such rulings underscore the significance of the public interest in applying copyright suspension rules, affirming that authors' rights to remuneration cannot be omitted when the work is used beyond the justified limits of reporting.

This approach clarifies that the right to suspend rights in reporting may only be invoked when the copyrighted work is inseparable and essential to the current event which is communicated to the public. This interpretation protects authors from misuse and ensures legal certainty in media reporting.

In conclusion, copyright suspension should not be considered as unauthorized free exploitation of works but as a carefully balanced instrument employed by society to protect public interest without undermining the essence of creative work made by authors.

Clear definitions of rights and exceptions constitute not only legal obligations but also an ethical framework that preserves the integrity of artistic and intellectual creation. This equilibrium between freedom of expression and respect for authorship underpins modern copyright law and guarantees that culture, knowledge, and information circulate freely while duly recognizing and respecting their creators.

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