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CURRENT COPYRIGHT LAW PROBLEMS IN THE EUROPEAN UNION

Copyright law is an integral part of every person's everyday life, we don't even think about it, but reading a book, watching a movie, taking

pictures – copyright law is always nearby. As of today, there is a problem with regulating specific issues related to copyright law, even though the legislation in this field is quite voluminous and capacious, but certain criteria remain undeveloped.

To begin with, the concept of «copyright law» should be considered. Copyright law is a certain system of legal norms that regulate relations related to the creation, development, use of works and creations in the field of art, literature and science.

Until a few years ago, relations related to copyright law were regulated by rules adopted in 2001, when the Internet was just born. Back then, on the Internet there weren't any video platforms like YouTube that is used to download the latest music videos of your favorite music groups while violating copyright. At that time, there weren't any large search engines either, such as Google, which shows individual fragments (excerpts) from newspaper articles in the search results.

On March 26, 2019, the news that the European Parliament adopted the narrow Copyright Directive No. 2016/0280 (the Directive – hereinafter) caused considerable indignation in Europe, which even reached Ukraine [1].

From one side, this Directive was named in different ways: the «Law on Censorship on the Internet», «The Law on Stopping Memes», but in any case, its main goal is to preserve the balance of rights and interests of users in the Internet environment. Due to the urgent need to respect the copyright of third parties, memes and GIFs are prohibited, in other words, they are not there at all, which has caused serious pressure on the youth.

In fact, the original text of the directive was slightly amended with new provisions stating that users are free to adapt, combine and upload content, but for the purpose of demonstrating or illustrating an idea, criticism, parody or compilation. So, such content may include excerpts from previously created works and contributions from the direct original author.

This means that parts of other authors' works can be used to create memes or GIFs, and such activities will not be considered as violating the copyright of the legitimate rights holders.

On the other hand, the adoption of the Directive is a step forward towards the creation of a single digital market in the European Union, a «no borders» area regarding internet transactions. The development of the digital single market is held back, apart from other things, by differences in the regulation of intellectual property rights in individual member states. The directive aims to remove such barriers and ensure that all users in the EU have broad access to works published on the Internet.

Commissioner Thierry Breton, responsible for the Internal Market, said: «Europe has an exceptional legacy of world-renown crafts and industrial products. It is time that these producers benefit from a new intellectual property right, like food and wine producers, that will increase trust and visibility for their products, guaranteeing authenticity and reputation. Today's initiative will contribute to the creation of skilled jobs especially for SMEs and to the development of tourism also in the more rural or economically weak areas» [2].

One of the main points that we should pay attention to is the possible interpretation of the provisions of the Directive by the EU Court, which will actually lead to the following options:

- the permissible certain number of words determined by the Court (or the title of the article and a certain number of words) will be sufficient for use by search engines on a free basis, or
- the number of words will be limited in such a way that even the title of the article will not be given in full.

In this case, events may unfold unexpectedly, taking into account the cited court precedents, and with the possibility of financial losses for publishers instead of receiving additional income [3].

The comments to the Directive also indicate that the provisions regarding publishers' rights contradict Art. 10 of the Berne Convention, which stipulates: «The use of quotations from a work that has been lawfully made available to the public is permitted, provided that good customs are observed and to the extent justified by the purpose, including quotations from articles from newspapers and magazines in the form of press reviews». In addition, the provisions of the EU Directive may be recognized as illegal by the World Trade Organization as part of the dispute resolution procedure [4, art.10]. Considering the above, it is untimely to implement the provisions of the Directive on publishers' rights into the legislation of Ukraine. It is appropriate to expect a mechanism for the application of certain provisions in EU member states.

Moreover, as mentioned earlier, Ukraine is a member country of the Berne Convention, which requires all parties to take into account copyrights from other member countries of the convention. It was the

Berne Convention, as an example, that laid the foundations of the international system of copyright protection for cinematographic works by including the latter in the list of objects of copyright according to the results of the Berlin Conference in 1908.

Unfortunately, there are still some gaps in the field of copyright protection in the national legislation of Ukraine.

Most of the arguments given are outdated and untrue. They have already been refuted in world practice, including a number of court decisions. They were invalidated by reminders by the Court of the European Union (CJEU) and disproved by national judicial authorities. Therefore, categorical statements such as: «The absence of a legal basis for a system of fees for private copying and reprographic reproduction is confirmed...» or «In view of the above, the fee for private copying is not fair» or «... thereby defeating the purpose of such levy established by the Act and proving the ineffectiveness of the existing system of levies». and statements similar to them are nothing more than excessively tendentious conclusions [5].

Summarizing the above, I would like to emphasize that a drastic transformation awaits our country's national legislation in this sphere, considering the experience of the European community.

References

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