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COLLECTIVE MANAGEMENT OF COPYRIGHT AND RELATED RIGHTS UNDER THE LAWS OF FOREIGN COUNTRIES: CHALLENGES AND PROSPECTS FOR UKRAINE

Oksana KHORENZHENKO,

PhD student of the Department of International Private Law, Educational and Scientific Institute of International Relations of Taras Shevchenko National University of Kyiv
https://orcid.org/0009-0005-7186-7730

This article addresses the topic of collective management of copyright and related rights within the framework of international legislation, focusing specifically on the challenges and prospects for Ukraine. It explores the legal regulation governing the activities of collective management organisations for copyright and related rights in other countries, with a detailed examination of practices in Germany, France, Poland, and the UK. The article also analyses the interactions between collective management organisations and state authorities.

Additionally, a comparative legal analysis of domestic and foreign legislations is presented, with particular emphasis on the mechanisms for royalty payments and the use of digital technologies to enhance the effective management of copyright and related rights.

Keywords: copyright, related rights, collective management of copyright and related rights, collective management organisations, intellectual property.

Formulation of the Problem

In the contemporary world, intellectual property assumes a pivotal role in the development of creative industries, catalysing innovation and ensuring equitable remuneration for creators and performers. Collective management constitutes a highly efficacious mechanism for protecting copyright and associated rights, a practice that has gained widespread implementation in international contexts. Collective management organisations (CMOs) assume a pivotal role in the collection and distribution of royalties, thereby ensuring adequate protection of rights holders in the context of substantial utilisation of intellectual property.

However, in Ukraine, the system of collective management of copyright and related rights has not yet achieved the level of efficiency characteristic of many developed countries. Despite the reform of the legislation and its adaptation to European standards, significant problems remain with regard to the transparency of the CMOs' activities, the mechanisms of distribution of royalties and the state policy in the field of intellectual property. These issues not only hinder the effective exercise of the legal rights of authors and performers to receive fair remuneration for the use of their works but also contribute to the development of unfair practices and potential abuses

within this domain. In this context, it is imperative to examine the experiences of other countries in the realm of collective management of copyright and related rights.

Furthermore, harmonising national legislation with European legal norms, particularly the EU acquis in the field of copyright, is imperative for Ukraine's integration into the European legal area and for enhancing the level of legal protection for copyright holders. In this regard, it is recommended to undertake a comprehensive analysis of international practices in regulating the relevant legal relations, encompassing the institutional framework, monitoring procedures, and models of copyright and related rights management in EU countries with effective enforcement mechanisms.

Purpose of the article

The purpose of the present article is to provide a comprehensive analysis of the activities of collective management organisations of copyright and related rights in the context of foreign legislation. The primary objectives of the study are threefold: firstly, to identify the most effective international practices of CMOs; secondly, to identify problematic issues in the effective management of copyright and related rights in Ukraine; and thirdly, to adapt these practices to ensure harmonisation of national legislation with the EU acquis in the field of copyright and related rights.

Analysis of the Latest Research

Recent research has produced a substantial body of scientific work examining the activities of collective management organisations (CMOs) for copyright and related rights within the legal frameworks of various foreign countries. This research has been conducted by a number of Ukrainian scholars, including V. Drobiazko, Yu. Kapitsa, S. Stupak, O. Zhuva- ka, L. Maidanyk, O. Orliuk, and N. Myronen- ko, O. Shtefan. N. Myronenko and O. Shtefan have specifically addressed the organisational and legal structures of CMOs in Ukraine and globally. L. Maidanyk has classified the different forms of CMOs and elaborated on their characteristics. Yu. Kapitsa, S. Stupak, and O. Zhuvaka have analysed legislation related to CMOs in European countries describing their peculiarities, models, and harmonisation issues. However, the exploration of international CMO practices and the adaptation of these practices within the context of European integration reforms in Ukraine, particularly amid the ongoing war and subsequent reconstruction efforts, remains inadequately examined, thereby highlighting the relevance of this study.

Main Results of the Research

The progressive development of globalisation processes and the most recent information technologies in the late 20th and early 21st centuries have contributed to the accelerated growth of opportunities for the dissemination of intellectual property, which in turn has engendered new

requirements for ensuring its adequate legal protection. In the digital age, where access to creative content has become much easier and the scope of its use has expanded significantly, there is a necessity to establish effective mechanisms to protect the rights of authors and performers. One such mechanism is the collective management of copyright and related rights, which allows right-holders to exercise their proprietary rights through specialised organisations whose main task is to ensure the exercise of the proprietary rights of copyright and related rights holders on a collective basis.

This institution occupies a pivotal role within the legal system, ensuring the equitable distribution of royalties, the effective control over the utilisation of intellectual property, and the protection of the interests of authors and performers at both the national and international levels.

A significant issue in establishing collective management organisations revolves around determining their organisational and legal structure. Expanding our perspective to consider the experiences of other countries, it becomes evident that the resolution of this issue depends on the nuances of national legislation. For instance, we can look to France and Latin America, where the most suitable model for private law organisations is a business partnership. In Italy, these organisations are formed as private law entities; however, their operations are subject to governmental oversight, which includes budget approval and the appointment of the chairman by decree from the head of government. In Bulgaria and Hungary, collective management organisations are state-owned, while in Belgium, Switzerland and Norway, they take the form of cooperatives; in the UK, they are limited liability companies; and in Israel, they are joint stock companies. However, irrespective of the legal form, according to the requirements of the International Confederation of Societies of Authors and Composers (CISAC), these organisations should not function as commercial entities and acquire the properties inherent in commercial organisations [8].

The World Intellectual Property Organization (WIPO) defines collective management as a series of actions designed to establish contracts for the use of creative works with users, along with the collection and distribution of remuneration. This process also encompasses other activities related to exercising rights on behalf of copyright and related rights holders [8].

According to WIPO recommendations, national legislation should provide a clear and reliable framework for the activities of collective management organisations that would guarantee the protection of the interests of both rights holders and users. While existing national practices vary, the following basic principles should be observed:

- Legislation should ensure fair remuneration for rights holders
- Legislation should not be burdensome to implement

In European practice, there are three models of CMO activities.

Voluntary Collective Management

The first is voluntary collective management, whereby a CMO grants permission to use protected objects of law on behalf of legal entities that authorise it to act on their behalf. CMOs obtain the authority to issue permits through the powers granted by national rights holders, as well as an international repertoire (catalogue of works) on the basis of mutual agreements concluded with similar societies in other countries. These bilateral accords are predicated on the principle of reciprocal representation, with many CMOs, especially in countries that follow the Anglo-American legal tradition (common law), organising their activities on the basis of voluntary agreements.

Extended collective management

In the context of extended collective management, a CMO is legally empowered to act on behalf of copyright and/or related rights holders who have entered into an agreement with it, as well as to represent the interests of other individuals who are not members and have not transferred the authority to manage their rights. In this scenario, users are legally protected in relation to legal entities whose interests are not directly represented by CMOs that are contractors of these users. This model of collective management is utilised in the majority of countries, including Ukraine, Norway, Sweden, Denmark, and Finland. During the 1970s, Scandinavian countries introduced the 'extended collective licence' legislative solution. According to the legislation in these countries, agreements made between users and organisations representing a substantial number of rights holders within a specific category of works are legally extended to all rights holders in that category. The establishment of these agreements between collective management organisations (CMOs) and users is based on the principles of free and prior negotiation, with the resulting legal obligations applying to rights holders who were not previously represented. The legal framework supporting this arrangement is built upon the following principles:

– The CMO should be granted the authority to represent interests on a national scale.

– The user is allowed to exercise all rights concerning the relevant objects.

– A rights holder who is not represented is entitled to individual remuneration in accordance with the law.

– In most instances, a rights holder who is not represented retains the right to prohibit the use of their works.

Extended collective management is categorized into two types: one that allows for the option to refuse such management and another that does not permit refusal.

A distinctive attribute of extended collective management is its autonomy from the explicit consent of the copyright and/or related rights holder, thereby establishing a de facto or de jure monopoly by the collective management organisation. This arrangement facilitates the provision of

blanket licences for the utilisation of works within the collective management organisation's entire repertoire. Consequently, under the provisions of extended collective management, a CMO is entitled to collect remuneration from those copyright and/or related rights holders who have not authorised the management of their rights. Simultaneously, these subjects are accorded equivalent rights to those who have authorised the CMO to manage their rights. They are entitled to demand information regarding the remuneration collected, as well as the exclusion of their rights from the management of the organisation.

The notion of extended collective management should be regarded as a distinct condition for the enforcement of copyright and associated rights, with the objective being to facilitate universal access to the global repertoire. This approach is intended to ensure the legality of user activities and to enhance the protection of the rights of copyright and related rights holders. The implementation of this model is particularly relevant in instances where the creator of a work is either unknown or absent. In this regard, WIPO observes that the non-contractual operations of CMOs are permitted in those countries whose civil law acknowledges the concept of representation without authorisation. It is further noted that such activities are usually permitted in respect of works of 'unknown authors', i.e. those whose identity is unknown for some reason.

Permission based on law

This model is characterised by the fact that rights management is not voluntary. Permission is granted by law, and therefore, the consent of the rights holders is not required. However, the latter are entitled to the remuneration collected by the CMO. If rights holders can negotiate with users about the amount of royalties, the author suggests using the term 'compulsory licence.'

Internal and external control

A CMO is entrusted with the protection of the rights of creators and their representatives. The scope of external control varies from one country to another and is governed by national legislation. Provisions for external control are included in copyright law or in separate legislation governing collective management organisations. For instance, in the Netherlands, Japan, and the EU, the Law on the Administration of Copyright and Related Rights has been in effect since 1 October 2001. The most general requirement of external control is that CMOs must be authorised or approved by the relevant authority. Such authorities include, for example, the Ministry of Culture in Denmark and the Ministry of Culture in France. In the Netherlands, the Minister of Justice established a control tribunal responsible for oversight. Since its establishment in 1985, this tribunal consults representatives of legal entities several times a year through their joint bodies [6, p. 313-315].

Each European country and region has a different approach to collective management. In France, where copyright and copyright management are anchored in post-Revolution human rights doctrines, collectives have undergone very significant changes since 2000. Germany, whose model was considered by several CMOs in Central and Eastern Europe, has developed a unique system of government oversight, located in the Patent Office. The United Kingdom, whose copyright law served as a model for the laws of most Commonwealth members, uses a specialised tribunal to settle tariff disputes [12, p. 8].

Digital Technologies and CMOs

In examining the operations of foreign Collective Management Organisations (CMOs), it is important to highlight the role of digital technologies in the efficient administration of copyright and related rights. Various European and global models of collective management have proven effective through their use of digital technologies for the collection, accounting, and distribution of royalties. This methodology guarantees a strong emphasis on transparency and fairness in the compensation of rights holders. Leveraging modern information platforms and automated management systems can alleviate bureaucratic hurdles, reduce administrative costs, and accelerate the monitoring of work usage. This, in turn, establishes an effective control and reporting framework.

For instance, SACEM, the French collective management organisation for copyright and related rights, has introduced new technological solutions to optimise royalty collection, thereby increasing the transparency and accuracy of the distribution of payments, as well as reducing distribution time, ensuring faster receipt of funds by rights holders. In 2023, SACEM and Deezer (Paris Euronext: DEEZR), a global leader in music streaming, announced the launch of an artist-centric payment system (ACPS) for publishing rights in France. This development signifies the first global update to the publishing remuneration model since the emergence of streaming over 15 years ago. The ACPS model ensures that a greater proportion of the subscription fees paid by subscribers is directed to artists, thereby addressing concerns regarding streaming fraud. It also ensures greater transparency in the distribution of royalties, while introducing more effective anti-fraud mechanisms [14].

The Polish CMO, ZAiKS, has implemented the most modern standards for data exchange with global collective management organisations, namely Common Royalty Distribution. This allows for the swift disbursement of remuneration to authors in Poland and globally. The ongoing integration of ZAiKS systems with the ISWC tool provided by CISAC has been shown to enhance the quality of data processing from usage files significantly. The implementation of electronic document management in ZAiKS offices has been demonstrated to facilitate the resolution of queries from authors and users with greater expediency. The increasing use of electronic document management is also facilitating the resolution of queries in a more efficient

manner. The mojeID (myID) service, which has been implemented on zaiks.online, offers a convenient and secure method of verifying and confirming one's identity. It enables the completion of a number of tasks that previously required a personal presence at ZAiKS offices and the presentation of an identity document to be performed online. mojeID employs multiple layers of security to protect personal data and a multi-stage verification process. For particularly sensitive data, additional security measures are in place [11].

CMOs in France

In France, collective societies are called royalty collection and distribution societies (RSDC), a term used in the Act of 11 March 1957, which was modified by the Act of 3 July 1985(Law No. 85-660 of 3 July 1985 concerning copyright and the rights of performers, phonogram producers and audiovisual communication enterprises) [11, p. 54]. The Act of 3 July 1985 devoted an entire chapter to 'royalty collection and distribution societies' in the Intellectual Property Code (Code de la propriété intellectuelle) (CPI)). Articles L.321-1 to L.321-13 CPI: Establish the fundamental rules for CMOs, including transparency, governance, and the protection of rights holders. Article L.321-1 of the CPI states that all RCDSs, whether they are administering copyright or related rights, must be established as civil-law companies whose members are the holders of the copyright or related rights, depending on the case [12, p. 166].

Law No. 2016-925 of July 7, 2016: Implements the EU Directive 2014/26/EU on collective rights management, reinforcing the obligations of CMOs regarding transparency, efficiency, and non-discriminatory practices.

Ordinance No. 2021-580 of May 12, 2021: Transposes additional provisions from EU Directive 2019/790 on copyright in the Digital Single Market (DSM Directive), including rules for licensing and fair remuneration.

French law, as in most European countries, provides that the collection, distribution and payment of fair remuneration is carried out exclusively by collective management organisations. In French law, these organisations are primarily considered to be societies engaged in the distribution of royalties and remuneration for related rights (hereinafter referred to as the Society). The author transfers his property rights to the Company as a contribution, but he does not act as its authorised representative. In this case, the Company acts as the author's legal successor. Collective management organisations are obliged to comply with the rule on fair distribution of remuneration, which provides for the obligation of collective rights managers to distribute royalties to all rights holders or categories of rights holders they represent. Furthermore, when paying, they must determine whether and to what extent royalties will be deducted for purposes other than the provision of management services

The distribution of royalties is conducted in accordance with a set of clearly defined principles. Companies are obliged to allocate 50% of the non-distributable funds received from private use to support creativity, promote

live performances and train artists. In the case of performing artists and producers, 50% of the funds received from the public distribution of sound recordings and their broadcasting must be utilised for the same purposes [7, p.58].

The Ministry of Culture is the primary state institution responsible for the regulation of copyright and associated rights, the implementation of relevant legislative initiatives, and the appointment of organisations. The charter of the Collective Management Organization (CMO) requires initial approval from the Ministry and must subsequently be submitted for state registration. It is subject to several key requirements, including the stipulation that CMOs can only be established by holders of property rights and non-profit organisations. Additionally, the charter must specify that the CMO should maintain a 'repertoire,' which refers to the property rights that are transferred to collective management by the founders of the CMO. Furthermore, the charter must incorporate a suitable mechanism for the distribution of funds. The Ministry set up a dedicated department responsible for addressing issues related to copyright in literature and the arts, as well as the drafting of relevant legislation and overseeing the operations of Collective Management Organisations (CMOs). Notably, in 2001, the Ministry established an advisory council composed of representatives from CMOs. This council was tasked with tackling matters such as French and EU legislation, potential abuses by users, and the debate over whether CMOs should hold a genuine legal monopoly [6, p.319-320].

CMO in Germany

In Germany the obligations of a collective management organisation under the Collective Management Organisations Act (Verwertungsgesellschaftengesetz) include obtaining authorisation from the DPMA as the competent supervisory authority prior to the commencement of its business. At present, 13 collective management organisations have such authorisation in Germany, which is granted in consultation with the Federal Cartel Office.

If collective management organisations established in another member state of the European Union (EU) or another Contracting Party of the Agreement on the European Economic Area (EEA) are active in Germany, the DPMA ensures that the collective management organisations conduct their activities in compliance with the provisions that the country where they are established has adopted to implement Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market.

Collective management organisations established in another member state of the EU or the EEA are required to obtain authorisation for their business only in exceptional cases. However, they must notify the DPMA of their activity if they manage rights resulting from the Copyright Act

(Urheberrechtsgesetz). Currently, nine collective management organisations established in another member state of the European Union or another contracting party of the Agreement on the European Economic Area have notified the DPMA accordingly.

Since the introduction of the Collective Management Organisations Act in 2016, the DPMA has also been the supervisory authority for dependent and independent management entities.

Dependent management entities are subsidiary companies of one or more collective management organisations. To the extent collective management organisations outsource certain activities, such as the collection of remuneration claims against users, and the subsidiaries thus themselves act as a collective management organisation, they must also observe the provisions of the Collective Management Organisations Act and are subject to supervision by the DPMA. Unlike collective management organisations, dependent management entities are generally not required to obtain authorisation. However, to the extent they manage copyright or related rights, they must notify the DPMA of their activities. Currently, seven dependent management entities have notified their activities.

Independent management entities are usually profit-oriented entities. The main difference from collective management organisations is that independent management entities are not associations of the creative people themselves. Rather, their organisation is independent of the right holders. Nevertheless, they collectively manage the rights of the right holders like a collective management organisation and share their income with them. Only certain provisions of the Collective Manage- ment Organisations Act, in particular information requirements, apply to independent management entities; in this respect, they are also subject to supervision by the DPMA. They must notify the DPMA of the commencement of their management activities. Currently, two independent management entities have notified the DPMA accordingly [16].

CMOs in the UK

In the United Kingdom, the government agency that regulates collective management organisations for copyright and related rights is known as the Intellectual Property Office of the United Kingdom (IPO). The IPO is the executive body of the UK government responsible for the registration and protection of intellectual property in the country. It provides legal and regulatory support in the field of copyright and related rights, and ensures the registration of copyrights, patents, trademarks and designs. The IPO also has the responsibility of monitoring and developing intellectual property legislation in the UK.

The key laws governing CMOs in Great Britain include:

– Copyright, Designs and Patents Act 1988 (CDPA). Establishes the legal basis for copyright protection and collective rights management. Grants authors, performers, and other rights holders exclusive rights over their works.

– Collective Management of Copyright (EU Directive) Regulations 2016. Implemented EU Directive 2014/26/EU before Brexit, improving transparency and governance of CMOs. Continues to apply in UK law post-Brexit unless modified by further legislation.

– Digital Economy Act 2017. Strengthens oversight of CMOs and ensures fair treatment of rights holders. Supports digital and cross-border licensing.

The Collective Management of Copyright (EU Directive) Regulations 2016 set minimum standards for the governance, transparency, and behaviour of collective management organisations (CMOs) established in the UK, as well as certain requirements for independent management entities (IMEs), rights holders and users. The Regulations also place specific obligations on CMOs that license the online use of musical works on a multi-territorial basis.

The main objective of the IPO is to ensure compliance with the Regulations. The IPO takes a proportionate approach in dealing with possible breaches that is consistent with the Regulators' Code and has regard to the May 2024 statutory guidance on the 'Growth Duty'. For example, a minor breach, could be dealt with by giving the CMO the opportunity to take immediate remedial action, such as updating its procedures to avoid repetition. If there are greater concerns, the NCA may deploy its powers to determine the nature and seriousness of any breach and decide whether enforcement action should follow. Sanctions can take the form of a formal compliance notice, and/or financial penalties up to £50,000.

The IPO hosts meetings with regulated parties to discuss regulatory and related issues of mutual interest, for example, Collective Rights Management in the context of international trade policy. There are discrete meetings for CMOs, IMEs, representatives of copyright users, and rightsholders and IPO may also meet with individual regulated entities bilaterally

The collective rights management landscape in the UK is well-developed and covers various sectors of the creative industries, including music, literature, art, and film. During this financial year, the IPO estimates from various source documents that 16 CMOs in the UK managed the rights of over 550,000 rights holders and distributed over £2bn of royalties to them.

The Intellectual Property Office (IPO) collaborates with external entities, including collective management organisations, to ensure the protection of intellectual property rights. Examples of such organisations include PRS for Music and PPL, which are responsible for the enforcement of intellectual property rights. In addition to UK law, publishers are permitted to grant licences for the use of intellectual property rights in the context of collective management, provided that they do not infringe the law. It is important to note, however, that the same rules do not apply to court decisions that are made by a court and are binding on both parties [13].

CMOs in Poland

The main legal rules on copyright in Poland are set out in the Act on Copyright and Related Rights, which was adopted on 4 February 1994. This act has been amended several times since then, mainly to adapt it to the changes taking place at European and international level

The aforementioned act contains provisions regarding:

– activities of CMOs;

– granting permissions for CMOs;

– supervision over CMOs; and

– activities of the Copyright Commission.

CMOs act within the scope of the authorisation granted to them by the Minister of Culture and National Heritage, which is also an external supervisory authority towards CMOs.

The rules on collective management in Poland are set out in the Collective Management Act of 15 June 2018 [15].

The provisions of the Polish Act on Copyright and Related Rights are similar to the ones applied in the majority of EU Member States from the continental copyright tradition.

CMOs act within the scope of the authorisation granted to them by the Minister of Culture and National Heritage, which is also an external supervisory authority towards CMOs.

The Ministry has the Copyright Commission, which, in particular, has the responsibility of determining the authorisation of CMOs in the interests of an author or performer who has not concluded an agreement with any such organisation, if there is more than one in a certain field of use of property rights. The criterion for acquiring the status of a CMO is that the organisation provides a guarantee to the Minister on the proper management of the rights entrusted to it. In the event of a violation of the terms of the granted permission, the Minister is entitled to demand the elimination of such violation or the cancellation of the permission for collective management activities (Article 104 (3) to (5) of the Law) [6, p. 330].

In July 2024, legislative amendments were introduced to implement two European Parliament and Council (EU) directives into the Polish legal order. These are:

– Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 (hereinafter referred to as the SAT- CABII Directive); and

– Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 (hereinafter referred to as the DSM Directive).

The DSM directive deals with aspects of the exploitation of works in the digital environment. It introduces new forms of fair use, measures facilitating access to works not commercially available and also the possibility of granting extended collective licences. The Directive also introduces new rules on the remuneration of authors and performers to ensure that the remuneration due to them is fair.

The purpose of the SATCABII directive is to create the conditions for wider dissemination in Member States of television and radio programmes from other Member States, to the benefit of all users throughout the European Union [17].

In Poland, the CMO is entitled to demand information and access to documents necessary to determine the amount of payments that are the subject of its interests. In determining the amount of such payments, the CMO is required to consider the amount of income received by the user, as well as the scope of use of intellectual property rights, the nature and extent of their use. The Copyright Commission, which is under the auspices of the Ministry of Culture, has the authority to approve or refuse to approve the tariffs submitted by CMOs for the payment of remuneration for the use of the relevant intellectual property rights. The Commission also has the power to resolve disputes regarding the application of tariffs. Should user agreements contain rates that fall below those approved by the Commission, such agreements are deemed invalid, with the approved rates taking precedence.

In Poland, the primary domains of remuneration collection through mandatory collective management encompass the right to remuneration for the utilisation of phonograms published for commercial purposes and performances recorded therein, reproduction for personal purposes, and reprography [6, p. 333].

There are currently 12 collective management organisations which have obtained an authorisation from the Minister of Culture [15].

CMOs in Ukraine

The current national regulatory framework and law enforcement practice in the field of collective management of copyright and related rights are inadequate and create significant obstacles to the effective functioning of this industry in Ukraine. The existing legal mechanisms often fail to meet modern challenges, do not take into account the dynamics of the digital market and the globalisation of intellectual property, which makes it difficult to regulate this segment effectively. The lack of a transparent system for collecting, distributing and paying royalties remains a significant problem.

The operations of various collective management organisations often lack transparency for rights holders and the general public, leading to a growing sense of distrust among authors, performers, and other stakeholders. The obscurity surrounding financial transactions and the insufficient oversight of these organisations' activities result in several issues, including delayed or incomplete remuneration payments and inconsistencies in the allocation of funds across different categories of rights holders. As a result, rights holders may not receive appropriate compensation for the use of their works, which negatively impacts the advancement of national culture and the growth of creative industries. Furthermore, it is essential to harmonise national legislation with the EU

legal framework, particularly in light of Ukraine's European integration efforts.

The most significant step in transforming the collective management system of copyright and related rights in Ukraine occurred in 2018 with the enactment of the Law of Ukraine 'On Effective Management of Proprietary Rights in the Field of Copyright and (or) Related Rights.' The legislation above stipulates that the collective management of copyright and related rights shall be conducted by non-profit organisations with the legal form of a public association, established exclusively by rights holders, whose sole activity is to perform the tasks and functions of collective management organisations (hereinafter referred to as CMOs). During discharging their duties, CMOs are empowered to enter into agreements with users on behalf of copyright and related rights holders, determine the amount of remuneration (royalties), and collect, distribute and disburse the collected remuneration [3].

The enactment of this legislation constituted a significant milestone in the evolution of Ukrainian copyright and related rights legislation, marking a pivotal shift towards alignment with EU standards on the activities of CMOs. This enabled the primary stipulations of Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on the collective management of copyright and related rights and the multi-territorial licensing of rights in musical works for online use in the internal market to be primarily incorporated into Ukrainian legislation. The directive establishes common rules for the collective management of copyright and related rights in the EU, thereby promoting better access to cultural products and services. The Directive establishes the minimum requirements for CMOs with regard to their statutes, operations and licensing. It also sets forth the procedures for interaction between CMOs and users of works and between different CMOs. Furthermore, the Directive outlines the requirements for the reporting and distributing funds derived from the use of works. Additionally, it provides for establishing a central register of CMOs within the EU internal market [4].

The next significant step in developing the collective management of copyright and related rights was enacting the new Ukrainian law, the Law of Ukraine 'On Copyright and Related Rights' in December 2022. This legislation came into force on 1 January 2023 [2].

The recently enacted legislation aimed to modernise Ukrainian copyright and related rights regulations in alignment with EU legal standards. The new law incorporates the stipulations of the Association Agreement between Ukraine and the European Union and the EU Directives on the protection of copyright and related rights into the country's domestic legal framework.

The main changes introduced by the new law to the CMOs:

-The rates of equitable remuneration for the right of resale (the share of deductions from each sale of the original artistic work, original manuscript of a literary or musical work following the sale of the original by the author)

are set at between 0.25% and 6%, depending on the price of the subsequent sale;

-A separate section defines the peculiarities of concluding agreements on the disposal of rights to copyright and related rights (agreements on the alienation of rights, licensing agreements, public licences, collective management agreements).

The approaches to defining acts infringing copyright and related rights have been updated. The category of acts threatening to infringe personal non-proprietary, copyrights, and related rights has been added. The liability for infringement of copyright and related rights has been strengthened. In particular, the compensation calculation methods (one-time fine) have been supplemented with reference to the subsistence minimum - from 2 to 200 (UAH 5,368-5,368,000 as of 01 January 2023).

It is worth mentioning that the recently enacted legislation defines the output of artificial intelligence as a non-original entity generated by a computer program and protected by a distinct legal framework *(sui generis)* [2].

Another crucial step in the implementation of European integration reforms, not only with regard to the institution of collective management of copyright and related rights but also with respect to the entire intellectual property industry, was the institutional reform.

In accordance with the Order of the Cabinet of Ministers of Ukraine No. 943-r 'Some Issues of the National Intellectual Property Authority' dated 28 October 2022, the state organisation "Ukrainian National Office of Intellectual Property and Innovation" (hereinafter referred to as the UIPI or IP Office) was established on 8 November 2022. This entity is responsible for performing the functions of the NI PA. The establishment and launch of the IP Office in Ukraine marked the conclusion of a six-year institutional reform process to modernise the state system of intellectual property legal protection. The IP Office has since evolved into a cutting-edge, technologically advanced, transparent hub [1].

The launch of the IP Office enabled Ukraine to advance to a new level of collaboration with the WIPO and professionally represent its interests in this organisation. Furthermore, it facilitated the intensification of cooperation with the European Intellectual Property Office (hereinafter referred to as the EIPO). As a consequence of the efforts of the National Intellectual Property Authority and the enactment of the Law of Ukraine "On Copyright and Related Rights", Ukraine made considerable headway in the field of intellectual property during the period under review. This is evidenced in the European Commission's seminal report on Ukraine's advancement in accordance with the Enlargement Package, which was published in November 2023. In particular, the report states that the recently adopted Ukrainian law, entitled "On Copyright and Related Rights," is designed to align the country's national legislation with the European Union's copyright *acquis*. Nevertheless, shortcomings remain in the fight against piracy and counterfeiting, as Ukraine continues to serve as one of the four primary

transit points for counterfeit goods destined for the EU [5]. Furthermore, there are unresolved issues pertaining to the accreditation, the CMO's operational mechanism, the disbursement of royalties to rights holders, and the establishment of a High Court on Intellectual Property (hereinafter referred to as the IP-Court). Consequently, to overcome these shortcomings, Ukraine must continue to harmonise its national legislation with the EU copyright *acquis* and enhance the functioning of collective management of copyright and related rights.

The full-scale invasion of russia has had a detrimental impact on the field of collective management of property rights. In 2022, all accreditations were suspended, resulting in the Verkhovna Rada's (Parliament of Ukraine) adoption of a series of legislative amendments to mitigate potential risks while enabling authors and rights holders to continue receiving royalties.

L. Maidanyk identifies the following aspects as being crucial for the effective collective management of copyright and related rights during a period of martial law: the implementation of extended and mandatory collective management of copyright and related rights, transparency of collective management of copyright and related rights, and improvements to the accreditation procedure, transparency of CMOs activities, and the tariff approval procedure, all of which are necessary for the post-war reconstruction of Ukraine [10].

As of 25 February 2024, 19 CMOs have been officially registered in Ukraine

In light of the tasks mentioned above, scientists are confronted with queries pertaining to the viability and methodologies for restoring accreditation and reporting by CMOs during martial law [9].

As is apparent, the process of Ukraine's European integration reforms in the domain of collective management of copyright and related rights is intricate and of fundamental significance, playing a pivotal role in the overcoming of challenges related to intellectual property. In the context of globalisation and the development of the digital economy, the effective regulation of this area in Ukraine necessitates a comprehensive approach predicated on the enhancement of the legal framework and law enforcement practice in accordance with EU requirements. This necessitates not only the implementation of European norms but also the introduction of effective mechanisms for monitoring, control and reporting in the field of collective management of rights. A further crucial aspect is to raise the level of legal awareness among authors and performers regarding their rights, to ensure access to information on the activities of collective management organisations, and to strengthen liability for violations in this area.

Conclusions

Collective management of proprietary copyright and related rights constitutes a significant legal mechanism, ensuring effective protection of the interests of rights holders on a global scale. The analysis of foreign legislation demonstrates that the success of this system is contingent upon

the transparency of collective management organisations (CMOs), the effectiveness of royalty distribution mechanisms, state control, and international cooperation.

The experience of leading countries demonstrates that the introduction of digital technologies, automated accounting systems and transparent royalty distribution algorithms can increase trust in CMOs and increase the income of rights holders. Another important factor is proper legislative regulation that clearly defines the rights, duties and responsibilities of both collective management organisations and users of intellectual property. For Ukraine, the adoption of best international practices in the field of collective management could be a key step in improving the effectiveness of copyright and related rights protection. In particular, there is a necessity to enhance the legislative framework, ensure transparency of the CMOs' activities, introduce digital rights management mechanisms and expand international cooperation.

In light of global trends and Ukraine's European integration course, the reforming of the collective management system in accordance with the most advanced international standards will not only improve the protection of authors' and performers' rights, but will also render the Ukrainian intellectual property market more competitive and attractive for investment.

Future research on the collective management of copyright and related rights in Ukraine should focus on several key directions to enhance the efficiency and transparency of the system. One of the primary areas of study is the development of a robust legislative framework that aligns with best international practices, ensuring clear regulation of collective management organisations (CMOs) and their responsibilities. A comparative analysis of successful legal models from EU countries and other leading jurisdictions can provide valuable insights for refining Ukraine's regulatory approach.

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