

UNESCO
WORLD ANTI PIRACY OBSERVATORY

ALBANIA

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I. Legislation

1. Copyright Law

- The law on Copyright is the [Law No. 9380, Date 28.04.2005 “On Copyright and other rights related to it”](#);
- Decision of Council of Ministers ([DCM\) No. 232 date. 19.04 2006, “ON CREATION AND FUNCTIONING OF ALBANIAN COPYRIGHT OFFICE”](#)
- Decision of Council of Ministers (DCM) No. 461. date 16.04.2008, “For some amendments on the Decision 343 date 06.06.2007 ”Tariffs for the Services offered by Albanian [Copyright Office](#)”.

2. Other Laws

The laws which pertain anti-piracy measures and copyright enforcement in the Albanian Territory are:

- The law no. 8410, date 30.09.1998, “For Public and Private Radio and TV in Republic of Albania”,
- Law no.7895 date 27.01.1995 “Penal Code of Republic of Albania,
- Law no. 8096 date 21.03.1996 “For Cinematography”
- Law no.8560 date 22.12.1999 “ For the taxation procedures in the Republic of Albania”
- Law no.8449 date 27.01.1999” For the Custom Code in the Republic of Albania” and the Decree of Council of Minister no. 205. date 13.04.1999 ” For implementation Provisions of the Customs Code”
- Law no.8477 date 22.4.1999 “ For some amendments on law for Intellectual Property”

3. Latest developments and perspectives

In the mid-2008, the review of the Law n°9380, dated 28.04.2005 “On copyright and other related rights related to it”, has started, aiming to improve it and enforce legal coercive measures against piracy and infringement of copyright.

These amendments refers to the current law in general and specifically to the specific articles: 2,3,4,5,6,7,9,10,12,13 (In article 13 are added 12 new provisions from 13/1 to 13/12, which provide exclusive rights to the author and ways for authors and rights holder to enforce them).

This law is expected to improve in these directions:

- Ensuring a better protection of copyright and other rights related to it.
- Strengthening the growth of controlled state mechanisms towards import-export goods, producers, users, exploiters of artistic, cultural and scientific works.
- Determining administrative and legal obligations and procedures of each State institutions, in such a way that these institutions work altogether efficiently and rapidly.
- Defining and specifying administrative and penal infringements. As a result, stating the content and extent of punitive sanctions.

This draft is also fully implementing the [Directive 2004/48/EC of the European Parliament and of the Council of 29 April on the enforcement of Copyright](#).

4. Summary of Legislation

- *Authors' rights*

Following the Law on Copyright, authors enjoy non-ownership rights as well as ownership rights on their works.

Moral rights

Authors shall enjoy the right to decide the moment and the place they will communicate their work to the public.

They also enjoy a paternity right, an integrity right and a right of withdrawal of the work.

These moral rights cannot be waived, nor prescribed, they are also not alienable. (cf article 12 of the Law on Copyright)

Ownership rights

Authors enjoy the exclusive rights to use their work and to enjoy a remuneration for every use made of their creation. Thus they have the right to authorize or refuse the reproduction of their work, its distribution to the public, its representation, its exhibition, its communication to the public (cf art 13 of the Law on Copyright).

Note that authors of artistic and visual arts also enjoy a *droit de suite* which allow them to benefit from each sale of their piece of work.

- *Related rights*

Provided that they do not affect Author's right, related rights are established in favour of performing artists, phonogram producers, audiovisual producers and broadcasting companies.

Performing Artists

They enjoy the right of parternity.

They also have the exclusive right to authorize the recording, the reproduction, the distribution and the communication to the public of their performance.

Phonogram producers

They enjoy the exclusive right to lease or lend the phonograms. They also have the exclusive right of distribution of the phonogram. As a counterpart of this latter right, the phonogram producers have to collect payment that is made thanks to this distribution and to divide it amongst artists who have participated in the phonogram.

Audiovisual producers

They enjoy the exclusive right to authorize direct or indirect reproduction of the work and to authorize the distribution or the loan of this work.

- *Exceptions and limitations to Copyright*

According to articles 26 to 29, the following use of a copyrighted work can be made without permission of the author and without any payment:

- reproduction of parts of the work made for informational purpose
- reproduction of speeches made during public gathering made for informational purpose
- reproduction for judicial or administrative procedures
- full or partial reproduction for personal use, provided commercial interest of the copyright holder is preserved
- reproduction made by libraries for their services
- quotation for studies purposes
- reproduction for educational purposes

- *Transfer of Copyright ownership*

The transfer of Copyright ownership has to be limited in the rights transferred, in time and in space. The transfer has to be done in written. It also has to specify the relevant payment. Generally, this payment will be calculated in proportion to the income coming from the exploitation of the work (cf Chapter VI "Transfer of ownership rights of the author").

The Albanian law on copyright gives specific details concerning transfer of rights in case of periodical press, contract for work order, publishing contracts and representation contracts.

- *Copyright law and "Foreign works"*

Copyright is applied over individual or legal entities, both Albanian and foreign, who exercise creative, productive or commercial activity as well as any mode of evaluation, exploitation, use or alienation of literary, artistic or scientific works, covering the territory of the Republic of Albania.

- *Duration of Copyright Protection*

The copyright over a literary or artistic work shall run for the life of the *author* and **70 years** after his death, irrespective of the date when the work has been lawfully available to the public (art 21 of the Law on Copyright)

The term of property rights for the *related rights* is **50 years**, beginning at the date when the work has been lawfully available to the public.

- *Presumptions of authorship*

The registration of a work is mandatory to claim protection.

The responsible and competent authority is [Albanian Copyright Office](#). The procedure for registering a work is provided in law and [DCM no.232, date 19.04.2006, "On creation and working of Albanian author's right office" chapter VI](#).

The office records copyright, related rights as well as contracts and agreements relating the transfer of these rights and licenses to collective management organizations.

5. International Treaties

Albania is a member of the following International Convention and Treaties on Copyright and Related Rights:

- [Berne Convention on the Protection of Literary and Artistic Works](#), since 1994.

- [Universal Copyright Convention](#), since 2003
- [Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations](#), since 2000
- [WTO TRIPS Agreement on Trade Related Aspects of Intellectual Property Rights](#), since 2002
- [WIPO Copyright Treaty](#) (WCT), since 2005
- [WIPO Performances and Phonograms Treaty](#) (WPPT), since 2002
- [Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms](#), since 2001

II. Measures and remedies

1. Copyright infringement

In the meaning of law no. 9380. date 28.04.2005 “On Copyright and other rights related with it” it is considered as infringement of intellectual property, the use, exercise or any other activity of alienation or evaluation without title, of a created intellectual property. The Albanian Copyright law does not provide clearly what an infringement to copyright is. But, several articles state norms to respect in order not to infringe copyright.

In the new draft proposed by ACO some amendments in the current law are foreseen, especially specific provisions regarding infringements of copyright in the internet environment.

2. Remedies to protect copyright holders

Law no. 9380, date 28.04.2005 “On Copyright and other rights related with it” and DCM no. 232, date 19.04.2006, “On creation and working of Albanian author’s right office” have provided various administrative measures to make possible the respect of copyright and to precede or to penalize any potential infringement of copyright.

Law regulates juridical relation between stakeholders enforcing the parties to introduce to the Office for registration and certification any legal title for transferring of rights. This is a measure considered up to the present as a useful one in monitoring the respecting of the Intellectual goods.

Office has in its composition an inspectorate, which exercises frequent controls to evidence implementation of legal provisions on copyright and other rights related with it. Article 130 and in continuance determines clearly attributions and duties of inspector and the way of proceeding in respect of application of penalty for administrative counterfeits. The fines vary in respect of administrative infringement.

A functional part of ACO is the Section of Judgment and Administration of Complaints which acts as an administrative court in regard with the complaints deposited by the parties for infringements of copyright in the intellectual property field.

The decisions of this section support and assist the Courts serving in the best, correct and rapid solution in processes with object infringement of copyright and other rights related with it.

More concretely: Articles 118 up to article 129 provide specifically various and punitive measures and remedies against infringers of copyright and other rights related with it.

Article 119 gives some attribution to the Prefect of each district to intervene and to take suspension measures when is ascertained an exercise of right for public display or communication without legal title.

Article 121,122,123, provide the manners of destroying or eliminating specimens of work and its confiscation.

Also, in the Penal Code are provided as punishable penal work with fine and prison the exercise of piracy as a phenomenon and benefits from it (article 147,148,149 of Penal Code).

3. Provisional measures

Temporary measures to prevent an infringement of copyright are provided in article 119, where the Prefect institution prevents communication to the public which does not enjoy legal title registered or certificated before to ACO. This precursory measure aims prevention of infringements.

Another precursory measure is provided to avoid or to prevent the continuance of infringement of copyright: article 123 related to confiscation case.

Also in the framework of the precursory measures to prevent and to avoid the infringement of copyright serves the registration and certification of contracts of transfer rights of created intellectual property.

The steps that should follow a person concerned are as below:

- Administrative compliance with the Albanian Copyright Office, in accordance with the Code of Administrative Procedures and the Law no. 9380, date 28.04.2005 "On Copyright and other rights related with it";
- Office in the meaning of article 104 of law, and point 11 of DCM no.232, date 19.04.2006 "On creation and working of Albanian author's right office", develop administrative investigation and expressed with a final explanation.
- With this final explanation of ACO, the interested party must go to the court in civil or penal manner, considering the infringed right.

4. Penalties for Copyright infringement

Based on law no. 9380, date 28.04.2005 "On copyright and other rights related with it". The section II of this law determines the administrative counterfeits and applied all fines according to infringements as below:

- Fines applied from 10 000 (ten thousand) until to 100 000 (one hundred thousand) leke, for administrative counterfeit noticed in conflict with article 130/1 points a", b", c", ç", d", gj", and dh";
- Fines from 10 000 (ten thousand) until to 500 000 (five hundred thousand) leke for infringements provided in article 130/1 point e", "ë" "f" and "g";
- Fine from 10 000 (ten thousand) leke until 500 000 (five hundred thousand) for counterfeits provided in article 130/1, with fine from 25 000 leke until to 850 000 for counterfeits provided in article 130/1 point "h"

In article 147 of Penal Code, the steal of property through fraud by presenting a work of Art or culture as being original or by an author other than the real one is punishable by a fine or up to 4 years of prison.

In article 148 of Penal Code, publish or use partially or totally with one's own name of a work of literature, music, art or science which belongs to another is punishable by a fine or up to 2 years of prison.

In article 149, total or partial reproduction of a work of literature music, art or science which belongs to another or used, conducted without the author's consent is punishable by a fine or up to 2 years of prison.

The Albanian organic law doesn't provide specifically the edition of fines and subjects that have infringed the copyright in any gazette or magazine.

Although in the Intern Regulation of the institution in the Chapter I, point 12, cited: every year office published an informative bulletin for the activity of the office that is also reflecting the results of Albanian Copyright Office, expressed in figures. Information, analysis and results are transmitted on the web page: www.zshda.gov.al.

Fines according to the article 133 are executed by the Taxation Authorities. The sum that is realized by their collection goes 100% in the state budget.

5. Requirements for foreign persons

No case regarding to foreign persons obtaining any special approvals in order to enforce their copyright in our country has been encountered.

III. Enforcement

1. Enforcement authorities

In the territory of Albania, the cases of copyright and other rights related with it, are attended in the all court Degrees.

Local legislation determines that the cases of copyright and other rights related with it, must be presented firstly to ACO, in the form of complaint request by the copyright holder, to investigate in an administrative manner by the Office.

Sector of Judgment of Complaints near to this office, developed the administrative process according to the Code of Administrative Procedure aiming to resolve with understanding the solution of conflict between parties. Based on this, Office expressed with the administrative act (Final explanation) to ascertain or not infringement of copyright.

After the completion of the administrative process near to ACO, any request is brought to the Court of (The First Degree of each City) and then the cases can continue both degrees of the Court: Appeal Court and the Supreme Court.

The Court of Tirana District (Capital of Albania) taken into account the volume of the work is divided in:

- Penal Court, where is requested the prosecution of the accused part as an infringer of copyright consuming the penal works provided in the article 147, 148, 149 of Penal Code.
- Civil Court, which attends civil cases of copyright and other rights related with it, via the administrative section, but not specifying any under-section specialized closely for this kind of cases.
- The Courts of the first Degree of the main districts, where such cases are rare in figures or missed, they attend this kind of cases as the all other civil /penal or administrative cases.

ACO participate in all civil/penal judgment process, when called up as a witness/ third party or accused party in contradiction of the Final Explanation on compliance or executive title "Sheet – fine" applied by the inspector against the users of intellectual property product that does not have legal title from the copyright holder.

So far, the Judgment and Administration of Complaint Sector, has represented and represents ACO in 17 judgment processes, to First Degree Court of Tirana or to the Court of Appeal, where the Office is invited in the position (or in the capacity) of the third party, as an expert, or as an accused party in contradiction with the final explanation of office.

- 1 judgment process near to the Appeal Court of Tirana;
- 1 penal judgment process near to the First Degree of Fier (district of Albania)

From these figures, only the Civil Court of Tirana has given its own decision for only 4 cases: where:

- In 2 cases (where the office has been as a third party) the accusation of the holder to determine the rate of the moral and material damage caused as a result of the infringement of copyright, ascertain by the office and expressed in the Final Explanation was accepted.
- In 1 case, where the office has been accused in contradiction of the executive title "Sheet-fine" applied by the inspector against user of Intellectual property product. The decision of court has determined the failure of the accusation for non closure before the administrative way of compliance toward this administrative act of the office.
- In the last case concluded, initiated before the office's establishment, where called up as a third party, its interpretation in favor of the rights holder- accused-had not been taken into account and the decision was brought to Appeal Court of Tirana.

2. Enforcement at the border

Implementation of customs measures at the border, is object of law: No. 8449, date 27.01.1999 "Custom Code" and DCM No. 205, date 13.04.1999 "On Implementation Procedure of Custom Code" amendments recently on DCM no. 547, date 1.05.2008. In Custom Code and also in DCM "On Implementation Procedure of Custom Code" are provided special provisions for the pirate goods

The responsible authority for exercising border controls is the General Directory of Customs. In its structure there is a specialized unit for the intellectual property products that supervises the custom procedure for these goods (for more you can see the DCM no. 547. date 1.05.2208)

The interested parties: rights holder and importer of goods are notified on time to suspense of goods by customs authorities. (More detailed information you can provide on DCM. No. 547, dt.01.05.2008)

IV. Public Awareness

1. Awareness campaigns and actions

In the frame of establishing and strengthening the responsible institutions to monitor the respect and the protection of IP/copyright and as an obligation deriving from the short term plan (NPISAA) [Albanian Copyright Office](#) was created as a specialized institution in the field of intellectual property of artistic, literary and scientific works. After the establishment of this institution, the work has been mainly addressed to raise the awareness between the community, regarding the values of intellectual property and the benefits that everyone can have by respecting the law. It has been as well focused on the cooperation with the other state institutions, part of the institutional chain necessary to cooperate and collaborate aiming sharp and efficient law enforcement.

The agencies of collective management of copyright or the other rights are also the result of the sensibility campaigns and work done by the office. Until now, we can count three (3) agencies (agency of music authors, agency of audiovisual and agency of performers) and very soon the agency of producers will be created.

2. Promotion of legal exploitation

ACO, learning from the best international experience, but also as a result of 2 years experience, is aware of the fact that the significant mission of our office can be successfully achieved through a coordination of action-plans and measures with all the institutions concerned.

This has been the reason that with immediately after establishment of ACO were signed the Understanding Memorandums with National Council of Radio- Television (NCRT), General Directory of Taxations, General Directory of Customs, State Policy, National Center of Cinematography, Competitive Authority.

3. Organizations with awareness-raison purpose

[Albanian Copyright Office](#)
 General Directory of Taxation
 General Directory of Customs
 Patent and Mark Office: Ministry of Economy and Trade
 National Council of Radio Television

4. Best practices

The [Albanian Copyright Office](#), in collaboration with Policy Authorities, has undertaken during the year 2008 a national action plan toward the subject that conflict with law no.9380, date 28.04.2005 "On Copyright and other rights related with it"

During the action- plans of ACO, organized to verify in place the implementation of the law by the users and producers of intellectual product result as below:

From 10 000 (ten thousand) until to 100 000 (one hundred thousand) lek, for administrative violation or infringements conflicting the articles 60. 130, point a and g, and with fine 500 000 (five hundred thousand) for infringement conflicting the article 130/h in 94. The penalized subjects are respectively in these cities: Tirana, Shkodra, Durrës, Elbasan, Pogradec, Korçë, Kavajë , Lushnje , Fier dhe Vlorë.

100 subjects were fined: Radios, TV, Phonogram Producers (CD, DVD) are the category of users more frequently controlled during the inspections of ACO.

V. Capacity building

1. Training

2. Establishment of specialized units and intersectoral groups

3. Best practices

Supported by International organization operating in the field of IP we organized seminars as well as round tables, workshops, national and international conferences. In all these activities have been invited to participate, judges, prosecutors, officers form customs, taxations, state policy and lectors that teach on copyright in different Universities.

VI. Other

1. TPM/DRM

Technological protection measures are a notion involved and elaborated in the new draft proposed for amendments. There are not provided any technological protection measures in the current legislation.

2. Licensing Schemes

3. Optical Discs

4. Hotlines

5. Relevant contacts & links

- Albanian Copyright Office

Director –NIKOLTA GJORDENI,

Website: www.zshda.gov.al, E-mail: zshda@albanianonline.net

Tel: 4 2 236 708; address: Rr."Abdi Toptani, No.4, Tirane

- General Directory of Taxation

Director General: Arben Sefgjini

Website: www.tatime.gov.al

- General Directory of Customs

Director General – Perparim Dervishi

Website: www.dogana.gov.al

- Patent and Mark Office: Ministry of Economy and Trade

Director General – Arjan Rukaj

Website: www.albto.gov.al E-mail: albpat@adanet.gov.al

Tel: 4 2 23 44 12 Address: Bul. "Zhan D`Ark no.3"

- National Council of Radio Television:

Director General: Mesila Doda

Website: www.kkrt.gov.al ; email: a.shtembari@kkrt.gov.al

Tel: 00 355 4 22 333 70 Address: Rr."Abdi Toptani"