

**ORDA's Answers**  
**for the second report by Member States to the General Conference on**  
**Measures taken to Implement the Recommendation concerning the Promotion**  
**and Use of Multilingualism and Universal Access to Cyberspace**

With reference to the Romanian copyright legislation, as a Member State of the European Union, it should be emphasized that the domestic regulations in the field are completely harmonized with the *Acquis communautaire*, transposing into the national legislation all provisions of the European Directives addressing copyright issues.

Furthermore, since the digital field's exponential development, viewed as a new way of exploitation of the copyright protected intellectual creation, Romania signed both WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms (WPPT) international treaties in December 1997 and had ratified them at 01.02.2001. WCT was ratified by the Romanian Parliament through Law 205/2000 and WPPT through Law 206/2000 (Of.M. no. 609/27.11.2000, for both).

Likewise, it also must be underlined that Romania is a founding member of the World Trade Organization through signing the Marrakech Agreement at 15.04.1994, ratified by the Romanian Parliament through Law no. 133/1994 (Of.M. no. 360/27.12.1994). From the copyright point of view, Annex IC of this Agreement is relevant, known as TRIPS (English), "Trade-Related Aspects on Intellectual Property Rights".

As regards limitations and exceptions to copyright, according to Law 8/1996 with its subsequent amendments and completions there are allowed the following cases for the use of a work without the permission of the owner of the copyright:

*Art. 33.—(1) The following uses of a work already disclosed to the public shall be permitted without the author's consent and without payment of remuneration, provided that such uses conform to proper practice, are not at variance with the normal exploitation of the work and are not prejudicial to the author or to the owners of the exploitation rights:*

- (a) the reproduction of a work in connection with judicial or administrative proceedings, to the extent justified by the purpose thereof;*
- (b) the use of brief quotations from a work for the purpose of an analysis, commentary or criticism, or for illustration, to the extent justified by use thereof;*
- (c) the use of isolated articles or brief excerpts from works in publications, television or radio broadcasts or sound or audiovisual recordings exclusively intended for teaching purposes and also the reproduction for teaching purposes, within the framework of public education or social welfare institutions, of isolated articles or brief extracts from works, to the extent justified by the intended purpose;*
- (d) the reproduction of brief excerpts from works for information or research within the framework of libraries, museums, film archives, sound archives, archives of non-profit cultural or scientific public institutions; the complete reproduction of a copy of a work shall be allowed for the replacement of the sole copy in such an archive or library's permanent collection in the event of the destruction, serious deterioration or loss thereof;*
- e) specific acts of reproduction made by publicly accessible libraries, educational establishments or museums, or by archives, which are not for direct or indirect economic or commercial advantage;*

f) the reproduction, to the exclusion of any means involving direct contact with the work, distribution or communication to the public of the image of an architectural work, work of plastic art, photographic work or work of applied art permanently located in a public place, except where the image of the work is the main subject of such reproduction, distribution or communication, and if it is used for commercial purposes;

g) the representation and execution of a work as part of the activities of educational establishments, exclusively for specific purposes and provided that both the representation or execution and the public's access are free of charge;

h) use of works during religious celebrations or official celebrations organized by a public authority;

i) use for the purpose of advertising, of the images of the works presented within exhibitions with public access or sale, of fairs, public auctions of works of art, to the extent necessary to promote the event, excluding any other commercial use.

(2) Subject to conditions provided for in paragraph (1), the reproduction, distribution, broadcasting or communication to the public, with neither direct nor indirect commercial or economic advantage, are allowed:

a) of brief excerpts from press articles and radio or televised reportages, for informatory purposes on current events, except those for which such a use is expressly reserved;

b) of brief excerpts of lectures, addresses, pleadings and other similar works that have been orally expressed in public, provided that these uses to have the sole purpose of informing on the present;

c) of brief excerpts of the works, within information on current events, to the extent justified by the informatory purpose;

d) of works, for the sole purpose of illustration for teaching or scientific research;

e) of works, for the benefit of people with disabilities, which are directly related to that disability and to the extent required by the specific disability.

(3) Temporary acts of reproduction that are transient or incidental forming an integral and essential part of a technical process and the sole purpose of which is to enable transfer, in a network between third parties, by an intermediary or the lawful use of another protected object and that should have no separate economic value on their own, are excepted from the reproduction right.

(4) In all cases provided for in paragraph (1) letters b), c), e), f), i) and paragraph (2) the source, including the author's name, has to be indicated, unless this turns out to be impossible; in case of works of plastic art, photographic or architecture works the place in which the original is to be found has to be indicated

Art. 34.—(1) It shall not be a violation of copyright, for the purposes of this law, the reproduction of a work, without the author's consent for personal use or for use by a normal family circle, provided that the work has already been disclosed to the public, while the reproduction does not contravene to the normal use of the work or prejudice the author or the owner of the utilization rights.

(2) For the media on which sound or audio-visual recordings can be made or on which reproductions of the works graphically expressed can be made, as well as for apparatus dedicated for copying, in the situation provided for in paragraph (1), a compensatory remuneration established by negotiation, according to the provisions of this law, shall be paid.

Art. 35.— The alteration of a work shall be permissible without the author's consent and without payment of remuneration in the following cases:

- (a) if the alteration is made privately and is neither intended for nor made available to the public;*
- (b) if the result of the alteration is a parody or caricature, provided that the said result does not cause confusion with the original work and the author thereof;*
- (c) if the alteration is made necessary by the purpose of the use permitted by the author;*
- (d) if the alteration is a short review of the works by didactic purpose, mentioning the author.*

*Art. 37.—(1) For the purpose of testing the operation of their products at the time of manufacture or sale, trading companies engaged in the production or sale of sound or audiovisual recordings, equipment for the reproduction or communication to the public thereof and also equipment for receiving radio and television broadcasts may reproduce and present extracts from works, provided that such acts are performed only to the extent required for testing.*

*(2) In order to supervise the utilization of their own repertoire by third parties, the collective management societies can monitor, by any means, the activity of the users, with no authorization from them and no payment, being allowed to request, for this purpose and public interest information held, according to the law, by the competent public institutions.*

On the other hand, specific provisions concerning Internet copyright infringement (Internet piracy) according to Law 8/1996 with its subsequent amendments and completions are as follows:

*Art. 139<sup>8</sup>.— It shall be an offence and punishable with imprisonment for 1 to 4 years or with a fine, the making available to the public, including through the Internet or other computer networks, without the consent of the owners of rights, of products involving copyrights, neighboring rights or sui generis rights of the makers of databases or copies thereof, regardless the physical medium, so that the public may access them from any place and at any time individually chosen by them.*

As regards the public domain, it should be highlighted that the national legislation in the field promotes the principles of an active society, based on social cohesion, solidarity and responsibility, and brings a major contribution in establishing a fair balance between the interests of authors and public interest, providing the proper framework for developing creativity in the benefit of all parts.

Furthermore, ORDA is permanently concerned to improve the national copyright legislation, harmonizing and bringing it up-to-date with the European and international juridical regulations. In addition, ORDA makes significant efforts for a better legislative enforcement through the intensification and extension of the national evidence measures, warning and examination, and not last, through increasing the level of awareness regarding the copyright and related rights usage and respect. The last mentioned activity is mainly achieved not only through public information campaigns, but also through trainings addressed to the business sector, copyright owners, users and public authorities.

Promoting values and principles as transparency and dynamism, creativity and innovation, respect and improving traditions, as well as through responsibility and professionalism, ORDA through its established mission and vision, contributed to the civil society consolidation, facilitating the increasing of the public awareness on the importance of the effective copyright protection and the action ways for the

copyright owners, as for other stakeholders and through promoting a model for respecting the copyright and related rights legislation.