

Education of Serbian Librarians in the Field of Author`s Rights Protection and Freedom of Information

Tatjana Brzulovic Stanisavljevic

University Library "Svetozar Markovic", Belgrade, Serbia

brzulovic@unilib.bg.ac.rs

INFORUM 2010: 16th Conference on Professional Information Resources

Prague, May 25-27, 2010

Abstract

Contradiction between intellectual property world policy and freedom of information as a basic human right are nowadays a top subject in the world of librarianship. The law concerning author's rights in Serbia is favorable to libraries because it permits them to give all kind of information and lend their members everything they have in their collections in any format except for commercial usage. It is very important to emphasize that librarians should be familiar with the world policy and praxis, to avoid the possibility of putting their users in unfavorable position because of the ignorance on the subject.

Serbian librarianship has a representative in the group for intellectual property of the international library consortium eIFL. Through the membership in European association of research libraries - LIBER and International federation of library association - IFLA it is also connected with world trends and discussions concerning the library rights and rights of their members to use for non-commercial needs all the publications from library collections.

Principle of universal availability of publications as a part of human right to freedom of information is endangered nowadays by publisher's requests to exclude electronic publications from the international interlibrary loan system and to introduce many new restrictions concerning their use. Through its representatives, Serbian librarianship is actively included in international activities for protection of library user's rights, and through the education for librarians and researchers it is working on the explanation of these problems to the people in Serbia.

Key words: education, librarians, intellectual property, copyright law, copyright protection,

Introduction

The Contradiction between global policy in the area of copyright protection and general human rights to freedom of information are still very "sensitive" topic in the librarianship world. The legislation in the area of copyright protection and intellectual property, speaking broadly, has not been equalized worldwide yet. Developed countries insist on overtaking solutions from their legislation systems by the developing countries, although this is evidently more beneficial to the developed countries rather than the developing ones, insisting on the statement that such legislation improves creativity. Especially negative in this trend is that the exceptions used for protecting common interest in the developed countries have not been imposed in the same manner as the protection of intellectual property has. The main objective of this paper is to explain and bring to understanding that all people have the fundamental right to freedom of access to information in libraries and via the Internet. On the other hand it is very important that the librarians are familiar with the copyright law and that they act in compliance with it. We are witnessing that there are many restrictions and censoring access to information, and some of them are imposed by copyrights themselves. There are differences in the regulation of this area among the countries which affects the attitude towards freedom of access to information and respect for copyright.

Libraries are simply considered to exist in order to provide all kinds of knowledge and information, regardless to their social or librarian acceptability or disputability. The modern information society requires exactly the respect for the freedom of information and protection of personal and social interests. It includes timely information, a wealth of information, and intellectual diversity. This leads to the increase of individual and collective accountability for protection of copyrights, freedom of thought and expressing an attitude as well as free access to information. The lack of intellectual freedoms undermines the existence of quality of the information society, and in order to protect and defend these rights there are declarations defined, manifestos declared and laws enforced. They are all supported or disputed by the individuals and groups, creating, in whole, a system of values whose aim is to have the human rights protected.

Universal Declaration on Human Rights¹ (UN, 1948) provides a common framework for the establishment, protection and enforcement of human rights. The right to freedom of access to information and freedom of expression is clearly stated in Article 19 of the Declaration on Human Rights:

¹ The Universal Declaration on Human Rights:<http://www.unhchr.ch/udhr/lang/src3.htm>

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”

Freedom to information is a term which could be interpreted in two different ways. The first one, according to CILIP², the term freedom to information has been mostly used by the librarians and IT experts and expresses the “overarching concept, generous but imprecise, expressing the professional’s rejection of any form of restriction on the circulation of information”. Freedom to information in the broadest sense is related to these older ideas, for instance, in time of old Greek, including the freedom of thought, intellectual freedoms, freedom to speak and freedom of expression (Ibid). This definition is in compliance with the Article 19 of the UN Declaration on Human Rights, linking the freedom to speak with the freedom to information, quoting that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers” (UN, 1948). Freedom of expression and freedom to information are, actually, two sides of the same coin.

The other definition is more constricted by the law. In this case, the freedom to information is related to legal constrictions of the public³ access to the official information (Sturges, 2001). It more concerns the transparency of the government, a principle which comprehends public monitoring of government’s meetings and consulting on planning and decision making.

Libraries are in *medias res* as they handle different information, and offer countless services. They are oriented to service and information providing for all users, as well to enabling the access to all information sources. International community of libraries always advocated the idea of free access to information. Also, the international association – IFLA together with UNESCO proclaimed in 1982 the principle of universal access to information, UAP⁴. The intention was to have this principle provide the availability of materials published in all formats. It supported inter-library lending, because if the local library did not possess material required by the user, it could borrow it from some other library. Although this UAP concept was completed in March 2003 IFLA still advocates free access to information. It initiated new actions through FAIFE⁵ in order to improve intellectual freedom from all aspects, directly or indirectly, all relating libraries and librarianship. It monitors the condition of intellectual freedom within global library community, supports IFLA’s development policy, cooperates with other international organizations for human rights and reacts on violations of rights to free access to information.

² Formerly the UK Library Association, CILIP is the Chartered Institute of Library and Information Professionals

³ Sturges, P. (2001), ‘The library and freedom of information: Agent or icon?’, Alexandria, Vol. 13, No. 1, pp316.

⁴ Universal Availability of Publications

⁵ Freedom of Access to Information and Freedom of Expression

Equal access to information means that it is possible to access all information sources in any way by anyone regardless the origin, age and gender. Special attention must be paid to the people with visual or any other disability, elderly and frail people, children, unemployed and people with special needs. The costs of access to information should be adequate to meet the needs of all users.

The use of copyright works and copyright protection was not defined until technical means and invention of the press enabled more massive usage of copyright works. In XVI century disloyal competition among printing manufactories brought to defining the printing privilege, a legal act which protected individual printing manufacturer for a particular work. Between XVI and XVIII century the privilege of limited timeline was issued to the publishers too, if approved by the editor or author. In England at the first half of XVIII century, in 1709 the first law entered into force, *the Queen Ann Law* which protected interest of authors during 14 years, with the right claimed to the extension of additional 14 years, what, actually constricted unlimited usage of intellectual property as a natural human right. In France, Royal Decree from 1777, an author gained publishing privilege for an unlimited period of time, while the publisher was deprived from that privilege by the death of an author. French bourgeois revolution abolished the system of privileges, allowing by the regulation from the 1791 that right to the author during his lifetime and additional 5 years after his death, and by regulation from 1793 that right was extended to 10 years after the death of the author.

In the Kingdom of Yugoslavia, the *Law on Copyright Protection* was introduced in 1929 for the first time. Since that period it has been changed several times. It was restricted and came into force in 1946, and new Copyright Law came into force in 1957, later being amended in 1968, 1978 and 1998. The Law on Copyright and Related Rights came into force in December 2004 and was valid until December 2009, when the new law came into force⁶. Beside better transparency and improvement of implementation of particular rights of intellectual property, the new Law has been harmonized with the EU regulations, as well with the Agreement on Trade-Related Aspects of Intellectual Property Rights (so called TRIPS Agreement), and includes a set of other novelties which protect Intellectual Property Rights in better and more efficient way.

The Copyright Law should provide balance between the owners' and the rights of users such as individual entities and libraries. Due to that it must include provisions on exceptions and constrictions to these rights implemented on the libraries and archives. Without existence of such exceptions libraries would cease to exist because they would lose their fundamental function, to enable the user to access information. Without existence of exceptions, the copyright holders

⁶ Adopted on 11 December 2009, published on 16 December 2009 (Official Gazette of the Republic of Serbia No 104/09, entered into force on 24 December 2009).

would have an absolute monopoly on the use of all materials, for each public work and its using should be paid for and asked for permission by the author, therefore disabling libraries to work. The Law includes provisions which allow production of copies in order to protect the material and for non-commercial purposes. The Valid copyright law in Serbia is favorable for libraries and other educational and public institutions because it allows them without restrictions and without asking for permission and payment of compensation, to provide all kinds of information and give everything they have in the fund regardless of the format to be used by their members for personal non-commercial use. It does not make difference between printed and material in e-format. So, we could say that the situation concerning copyrights protection and position of libraries and individual users of copyright works for non-commercial purposes in Serbia is favourable.

Fair attitude towards the copyright is an obligation both for the librarian and the reader, speaking in the field of library activities. The reader should have respect for the intellectual property by:

1. Searching the primacy of an idea
2. Correct and objective placement, depending on the context of the origin, rather than his current needs.
3. Quoting used text followed by comprehensive bibliographic records.

On the other hand, the tasks of librarians are beyond previous statements. Firstly, a librarian has to be familiar with the legislation related to this field, then he has to respect general binding provisions in libraries, synchronize internal rules of material usage with the existing law and, specially, he has to work on education of the reader and/or user, junior researchers, in sense of raising their awareness about respecting the copyright. Copyright protection in libraries is often related to the moderation and partial copying of printed materials, and protection of individual sources on the Internet. Libraries in general respect copyrights, by saving of funds themselves, especially the manuscripts holdings and library units, which bear the personal hallmark of their owners. In this manner, the whole new dimension of copyrighting has been opened, exceeding the law, because the will of an individual, whose collection is saved in a library, or a will of any of his inheritors, becomes a priority for the institution. In practice, it means that manuscripts and published materials from independent collection cannot be used at least 50 years after the death of an author, i.e. as long as he or his legal protector estimates as necessary. Respecting intellectual property of an author, certainly, must neither be of a restrictive nature, nor may it leave such an impression. In some way, this is in conflict with the width of the distribution of literature and ideas and fundamental human right to intellectual freedom. But the fact is that laws on copyright are not respected in many countries.

Libraries should be clearly provided with the guidelines for respecting copyrights, more flexible comparing to the publishers and individuals, resulting from the law, and whose restrictiveness, in relation to the libraries, may have a significant effect on teaching-educational and scientific-researching engagement of an individual. Knowledge about thefts of ideas among librarians, professors and scientific workers, even entire texts, that someone else's books being translated or rewritten without naming the source, that Internet is used as general wealth, is definitely a devastating truth of modern times, which, unfortunately, may be confirmed by the state of art in numerous published books and magazines. So, an opened question remains on whether the librarian has the right or an obligation, or it is out of his competence, to inform the user about plagiarism. The Digital Millennium Copyright Act (DMCA), put into force in 1998 by the USA Congress, which deals with ethical issues of using library materials, was in 2001 amended by clarifications on partial restrictions in the field of digital records usage.

Does the prevention of copying and printing, scanning and over-taping of some units really protect copyrights or it just aggravates collecting data for the researchers? The librarians are considered as mediators between authors and users who rationally and in good will do their best to protect both sides. On this occasion we usually forget about rather explicit necessity that a librarian is considered to provide complex, timely and complete information for a user, and he is often regarded to make available on library portals full texts of copies, if not printed materials, which are deposited samples of a library, without having previously regulated copyrights. Such are, for example specialists', master's, doctoral theses, which are certainly required by the university population, and therefore kept in higher educational institutions, but without previously provided consent of an author to be revealed in other medias.

In electronic surrounding the procedure of licence issuing with a purpose to use the desired material is inevitable. However, copyright respecting and licence issuing are significantly preconditioned by the economic factor, so they often turn to be the restriction for the access to information. Evidently, the ignorance of a user to engage modern technology, as well as insufficient skill and knowledge of a librarian often may be an obstacle for free usage of information.

Situation in Serbia

In general public, in Serbia, the implementation of the Law on Copyrights has not been the subject of special attention for years, and therefore the people have been poorly informed about it. In recent time, this subject has been entering into the focus of wider interest, by publishing referent articles in press, leading to the wider media campaign on copyrights and their protection. Amendments to this Law were also significantly tackled in media.

However, the mode for regulating copyrights and implementing legal solutions in Serbia has not been designed yet. The Law is in force, but each institution implements and enforces it

independently, without uniformly established interpretations and principles. And while the laws are strictly enforced and respected in the EU and other European countries, therefore copyrights being protected appropriately, the implementation of legal solutions in this field in Serbia has not been adequately pursued. Nonetheless, commitment of Serbia towards European integration and accession to the European Union will certainly in the area of copyright law, as one of more important, require better and more efficient implementation of legislation and monitoring its implementation.

In accordance with the present general relation towards copyrights in Serbia, librarians as well, gained little knowledge in this field so far. Better presentation of copyrights in legislation and broader public, their increasing significance gained in our country and development of librarianship simply dictate the librarians to be better and more intensely informed and educated in this field. The librarians are further attending different international conferences, meeting their foreign colleagues and exchanging experiences.

Organized education in the copyright field in Serbia started in 2008. It is being realized in three different ways.

So, just over a year ago, an appropriate education of postgraduates in Belgrade, Novi Sad, Nis and Kragujevac Universities, started in Serbia. It was organized by University Library "Svetozar Markovic" and Serbian National Library in cooperation with Serbian Ministry of Science, which financed this project. One of the study fields for the postgraduates is copyright protection, and lectures about that subject were organized in Belgrade, Nis and Novi Sad. Additional information on educational program for young researchers, grantees of the Ministry of Science, can be found on Kobson website⁷.

The second way to implement librarians' education are lectures organized in all kinds of libraries. These lectures are designed in such manner that they firstly include theoretical classes on copyright protection, and then after employment in small workshops, questions are discussed and answers to them are found interactively. The objective of these librarian workshops is to reach appropriate conclusions in this field through discussions, questions and answers. Regarding that there is no unified principle to protect copyrights, the outcome of thus organized workshops is that each library and each librarian is to perform it in their own way, and that this field should be regulated by the library policy.

The third way is curriculum of the third and fourth year and master course of LIS studies at the Faculty of Philology of Belgrade University, LIS Department, where students learn fundamental elements and terms of legislation. In this manner librarians-to-be are getting

⁷ http://kobson.nb.rs/nauka_u_srbiji/za_mlade_istrzivace.96.html

acquainted with the grounds of copyright protection, before they commence their professional engagement at all.

In accordance with the principles of transparency, work efficiency and obligatory implementation of legislation, it would be favourable, almost necessary, to have all the libraries set to their sites clear guidelines for using library material. I.e., to have clearly and publicly defined what materials might be copied, or not, what parts of books and how they could be used and similarly, and why there are particular restrictions in using particular materials. By clearly set and well defined stands, actually, libraries and librarians enable in best possible way respecting and implementing copyright legislation. In order to make this possible, it is necessary to have organized, regular and continuous education and training of librarians in this field, as prerequisite for efficient work, as well for future European integrations. Therefore, users will be provided with all required information on available and availability of library materials.

For librarians it is of utmost importance to be well acquainted with the copyrights protection also because they appear to be a mode for restricting universal principle of publications availability, as a part of comprehensive human right to information. Namely, different publisher more often emphasize their demands for introducing many restrictions in using electronic publications and their exclusion from the system of international library lending. Serbian librarianship is actively engaged in international activities concerning the fight for the rights of the users, since it ardently supports comprehensive human right to free information and assists in enforcing that right for all.

Serbia, namely, has its representatives in the group for intellectual property in the international consortium eIFL. Since 2006, our representatives, who monitor the field of intellectual property, have taken part in annual meetings of this international consortium. On these meetings the most prominent experts for copyright protection gave lectures, and our representatives were provided with appropriate materials and coordinated their stand with international activities of eIFL on promoting the rights to free information. Lecturing on specialists' meetings, courses for post-graduates, librarians and researchers are intended for making this field closer to as many people in Serbia as possible.

And, finally, membership in European association of research libraries – LIBER International Federation of Library Associations means for Serbia and Serbian librarianship direct involvement in world streaming and discussion on the librarians' and users' rights to employ all publications archived and available in funds for non-commercial purposes.

Conclusion

Only by clearly established and well defined stands, libraries and librarians could provide compliance with and implementation of legal regulations on copyright protection in the best possible manner. In order to realize that, it is necessary to have organized and continuous

training of librarians in this area on regular basis, both being prerequisite for efficient performance and also future European integrations. Trainings and education of librarians in the area of copyrights, which has already started in Serbia is being realized in three previously mentioned ways and will be further kept on.

Literature:

1. Брзуловић-Станисављевић, Татјана и Стела Филипи Матутиновић. „Ауторско право и библиотеке у Србији”. Рад представљен на Годишњој скупштини Заједнице библиотека универзитета у Србији, 9.12.2008.
2. Брзуловић-Станисављевић, Татјана и Стела Филипи Матутиновић. „Активности библиотекара Србије у области заштите ауторских права и права на слободу информисања“. Рад представљен на Међународној научној конференцији “Етика у науци и култури”, Београд, Србија, 25-26 . 9. 2009.
3. Вранеш, Александра и Љиљана Марковић. „Цензура и библиотеке” Београд: Гласник Народне библиотеке Србије, 2008. Доступно на: <http://www.nb.rs/publications/publication.php?id=18672>
4. The Universal Declaration on Human Rights. Available at: <http://www.un.org/en/documents/udhr/>
5. The Law on Copyright and Related Rights . Official Gazette of the Republic Serbia No 104/09
6. Филипи Матутиновић, Стела. ”Електронски извори информација у науци: значај, врсте, доступност, процена вредности”. Доступно на: <http://www.unilib.bg.ac.rs/edukacija/index.php>
7. Hamilton, Stuart. To what extent can libraries ensure free, equal and unhampered access to Internet-accessible information resources from a global perspective? PhD thesis from the Department of Library and Information Management Royal School of Library and Information Science, Copenhagen, Denmark. Available at: <http://www.ifla.org/en/search/node>