

Journalism and copyright: is there a defence similar to fair use or fair dealing?

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Intellectual Property, Greece

Law 2121/1993 on Copyright, Related Rights and Cultural Matters (the Copyright Law) does not provide for a fair use or fair dealing defence.⁽¹⁾

Nevertheless – and in compliance with the EU Information Society Directive (2001/29/EC) – the Copyright Law contains an exhaustive list of specific statutory exceptions and limitations on authors' economic rights.

A copyrightable work can be legally used without prior authorisation or payment if said use is covered by a specific exception or limitation stipulated by the Copyright Law and all legal requirements provided thereunder are met.

Section IV of the Copyright Law sets out the following exceptions and limitations:

- reproduction for private use (Article 18);
- quotation of extracts (Article 20);
- school textbooks and anthologies (Article 20);
- reproduction for teaching purposes (Article 21);
- reproduction by libraries and archives (Article 22);
- reproduction of cinematographic works in order to preserve them in the National Film Archive (Article 23);
- reproduction for judicial or administrative purposes (Article 24);
- reproduction for information purposes (Article 25);
- use of images of works sited in public places (Article 26);
- public performances or presentations on special occasions (Article 27);
- certain acts concerning orphan works (Article 27A);
- exhibition and reproduction of visual art works (Article 28);
- reproduction for the benefit of the blind, deaf or mute (Article 28A); and
- an exception from reproduction rights being an essential part of a transmission in a network (Article 28B).

The above limitations apply only in certain cases and must always be interpreted in compliance with the three-step test provided in Article 28C of the Copyright Law (as set out in Article 9(2) of the Berne Convention).

Briefly, this test requires that the exceptions:

- are strictly linked to a special purpose;
- do not conflict with the normal exploitation of the work; and
- do not unreasonably prejudice the right holder's legitimate interests.

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Endnotes

(1) This is the second article in a series on journalism and copyright in Greece. For the first article in the series, please see "Journalism and copyright: what is protected by copyright law?".

(2) Supreme Court Decision 1328/2018.

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