



Journalism and copyright: range of damages awards for successful copyright claims

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Intellectual Property, Greece

In copyright infringement cases, rights holders can claim both pecuniary and moral damages. According to Article 65(2) of Law 2121/1993 on Copyright, Related Rights and Cultural Matters (the Copyright Law), where an infringement was intentional or the result of negligence, the amount of damages (ie, compensation) cannot be lower than twice the remuneration that the infringer should have paid – under normal circumstances – for the legitimate acquisition of the relevant exploitation rights.**(1)**

This is a presumption of law in favour of plaintiffs, as in many cases it is extremely difficult for a copyright owner to prove the exact amount of actual damages resulting from a particular infringement.

Instead of the above compensation and regardless of whether the infringement was intentional or the result of negligence, the claimant may demand either:

- the payment of the sum accrued by the infringing party from the unlicensed exploitation of a work or the object of a related right; or
- the profit gained by the infringing party from such exploitation.

The exact amount of pecuniary damages due is estimated by the Greek courts based on the evidence produced by the claimant and mainly depends on the price that would be required by the claimant under normal circumstances. Therefore, a specific range of damages cannot be determined, as their estimation would vary depending on the particular circumstances of each case. For example, if the remuneration payable to the claimant for the legitimate use of a copyrighted work amounts to €10,000, the amount adjudicated by Greek courts would be double the amount of said remuneration (ie, €20,000), provided that the infringement was intentional or the result of negligence according to Article 65(2) of the Copyright Law.

Moral damages in copyright cases are freely assessed by the courts depending on several factors, including:

- the type of violation;
- the seriousness of said violation;
- the right offended;
- the duration of the violation; and
- the moral harm caused to the claimant.

Moral damages adjudicated by the Greek courts in copyright infringement cases are in principle relatively low, particularly compared with other jurisdictions.

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Endnotes

(1) This is the fourth article in a series on journalism and copyright in Greece. For the other articles in the series, please see:

- "Journalism and copyright: is there a defence similar to fair use or fair dealing?";
- "Journalism and copyright: what is protected by copyright law?"; and
- "Journalism and copyright: other defences and exceptions to copyright claims".

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