

## **GENERALLY**

Law no: 5846 on Intellectual and Artistic Works is the basic legislation on Copyright issues in Turkey. Directorate General for Copyright as one of the main units of Ministry of Culture and Tourism is the responsible public institution in the field of copyright and related rights.

## **COPYRIGHT LIMITATIONS AND EXCEPTIONS FOR DISABLED PEOPLE IN TURKISH COPYRIGHT LAW**

Additional Article 11 of the Law no 5846 is the special provision which is dedicated to copyright limitations and exceptions for disabled people in general.

According to Additional Article 11, disabled persons have following rights;

Provided that no such copies have already been produced for the use of people with disabilities, without obtaining the permissions prescribed by this Law and without commercial purpose, it is permitted to reproduce or lend (including school books) written scientific and literary works that have been made public or published for the special use of disabled people. Reproduction or lending can be made in a single copy by a disabled person for his/her own use or by another person acting on behalf of him or can be made in required quantity by some institutions serving for the benefit of the people with disability such as educational institutions, foundations, associations in the form of cassettes, CDs, Braille alphabet or such other formats. Such copies in no way may be sold, put into commercial use and may be allowed to be used for other than their intended purposes. Furthermore, it is compulsory to depict the required information related to right holders and indicate the purposes of reproduction on the copies.

There is no specific provision for visually impaired people in the Law.

## **PROTECTION OF AUDIOVISUAL PERFORMANCES IN TURKISH COPYRIGHT LAW**

It was entitled neighbouring rights for performers in Law on Intellectual and Artistics Works No.5846 with dated 1951 with amendment in 1995. Afterwards, it has been sustained regulations regarding this rights with changes occurred in years of 2001 and 2004.

To be in conformity with some significant international agreements such as Rome Convention and WIPO Performances and Phonograms Treaty (WPPT) and also with the acquis of European Union, performers are protected as “related right holders” under the Law No.5846. Article 80 of the Law regulates the rights of related right holders.

According to Article 80 performers have the following rights:

(1) Independently of performers’ economic rights, and even after the transfer of those rights, as regards their fixed performances, the performers shall have the right to claim to be

identified as the performer of their performances and claim the prevention of any distortion and mutilation of their performances that would be prejudicial to their reputation.

(2) A performer who interprets a work in an original form with the permission of its author shall have the exclusive right of authorizing or prohibiting the fixation of such performance, reproduction, sale, distribution, rental and lending of such fixation, communication of such fixation to the public by devices permitting transmission of signs, sounds and/or images as well as its re-transmission and performance.

(3) A performer shall have the right of authorizing or prohibiting the distribution by sale or any other way of the original or the copies of his fixed performances which have not yet been put up for sale or distributed in any other way in the domestic market.

(4) A performer shall have the right of authorizing or prohibiting the sale of the original or reproduced copies of his fixed performance by wire or wireless means, or the distribution or other supply and communication of such performance or reproduced copies to the public by providing access to them at a time and place chosen by natural persons. Distribution and supply of performances by means of communication to the public shall not prejudice performer's right of distribution.

(5) Performers may transfer these rights to a producer by contract in return for equitable remuneration.

(6) Where the performance is carried out by a theatrical group, the permission of only the director in case of theatrical group shall be sufficient.

To sum up, performers are exclusively entitled to permit or limit the fixation, reproduction, distribution, communication to the public and performance of their performances as their economic rights. They also have their moral rights such as the right of authority to disclose the work to the public, prohibit all modifications which will be prejudice to his honour and reputation or damage the nature and characteristics of the works.

The rights of performers shall last for 70 years from the date of first fixation of the performance. If their performances have not yet been fixed, the term shall begin with the date on which the performance is first made public.

Performers may establish more than one collecting society in order to protect the mutual interests of their members, to manage and pursuit of the rights granted by this Law and to collect and distribute fees to their members.