[TR] Legal Steps against Unauthorised Broadcasting of Movies Announced

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Turkish actors are planning to file lawsuits against television broadcasters to compensate for their loss resulting from the unauthorised broadcasts of their movies that were completed before 1995.

The year 1995 plays a significant role for Turkish copyright law. Until 1995 producers were considered as the sole authors of cinematographic works. By amendments to the Turkish Copyright Law (LIA) in 1995 (Law 4110), authorship was granted jointly to directors, scriptwriters and composers of the original film music (Art. 8 LIA). It is important to note that the amended article was valid only for films the production of which began after 1995, hence, producers remained authors of the films produced before 1995 (see IRIS 2008-5/30). In addition to this amendment regarding the ownership of cinematographic works, performers received a legal status and some exclusive rights as holders of related rights (Art. 80 LIA). Due to another amending Law that entered into force in 2001 (Law 4630), film producers were named holders of neighbouring rights provided that they acquired the authority to exercise economic rights from the authors and the performers.

According to Add. Art. 2 LIA the protection granted by the mentioned amendments shall be applied to all works and fixed performances existing in Turkey at the moment of the entering into force of the related Laws. The above-mentioned restriction brought for the authorship of cinematographic works by the last paragraph of Add. Art. 2 does not cover performances. This means that, after the amendments, actors became holders of related rights to all movies made before and after 1995. In spite of this, the habits of television broadcasters and film producers did not change. They continued to broadcast - especially films made before 1995 - without the written consent of the actors.

There was no significant attempt to file a complaint until 2006. The heirs of a famous Turkish actor filed a suit for damages against a producer due to the unauthorised broadcast of two movies made in 1985 and 1988. The producer alleged that he held all economic rights on the movies according to a mutual agreement between him and the actor. In 2010, the IPR court accepted the claims of the plaintiffs, in particular due to Add. Art. 2. The judgment is now being reviewed by the Court of Appeal. This decision constitutes a precedent for other

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actors who played roles in movies produced before 1995. Furthermore it constituted an increased awareness of the issue among actors.

As a result of this, a press conference was held by “The United Actors Collecting Society” (BİROY) which was established in 2009 to protect and pursue the rights of actors (see IRIS 2009-7/33). The representatives of BİROY declared that they are going to take action against broadcasters that broadcast movies without paying royalties.

The Turkish Cinema Sector is traditionally named Yeşilçam (Green Pine). Therefore the actors called this campaign “Yeşilçam is Awakening”.

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Judgment of the Istanbul 1st Industrial Property Rights Court of 25 May 2010, E.2006/521, K.2010/100

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