DOI: 10.46340/eppd.2021.8.2.6

Svitlana Sabura
ORCID ID: https://orcid.org/0000-0002-7491-7087
National University "Odessa Law Academy", Ukraine

INTERNATIONAL LEGAL ACTS THAT REGULATE THE LAW ON CREATIVITY: HISTORY OF ADOPTION AND VALUE FOR THE FORMATION OF THE NATIONAL LEGISLATION OF UKRAINE

This article examines the most important international documents regulating the right to creativity, as well as analyzes those international acts that provide for the protection of the results of creative activities to authors (subjects of copyright) from various countries of the world. It is important to consider the historical stages of the formation and establishment of legislation in the field of intellectual property at the global level. The need for a clear and effective structure of the interaction of various human right bodies with the authors is determined because of the gaps in legislation, wrong interpretation of the norms of international law, omissions of important practices and systems for the application of these norms in the national legislation of Ukraine, the imperfection of the process of borrowing international norms, lack of state institutions which have to consider disputes arising between the subjects of creativity.

Taking into account the practice of other countries, whose legislation fully complies with international requirements and standards, an important step may be, for example, to establish separate units of human rights bodies (prosecutors and police), which will be able to consider cases related to the protection of copyright and other property and non-property rights of the authors.

When considering cases, the courts of all instances and jurisdictions must accept and take into account the norms of international legislation, Conventions, Agreements and other international acts ratified by Ukraine, which the parties of the process referred to. This practice can provide fair protection and once again confirms the significant role of international documents in the national legislation of Ukraine.

Regardless of the role assigned to international acts in the system of legislation of Ukraine, taking into account the different opinions of legal scholars about the role of an international treaty or Convention adopted and ratified by Ukraine in the system of legislation of Ukraine, it can be concluded that international acts are an important source in the formation of legislation of Ukraine.

Keywords: right to creativity, international documents, agreements, ratified, the Berne Convention, convention.

Problem statement. Copyright, as P. Geller writes, was born in the eighteenth century, in the age of books and live theater. Then the courts had the opportunity to determine geographically the place where certain works were published in print or on stage. Now, on the threshold of the twenty-first century, works can be created and immediately presented to the public virtually, through global computer networks[1].

The relevance of the topic is beyond doubt, as the opportunity to study international legal documents that underlie the national legislative systems of many countries of the world will provide an opportunity not only to analyze the current situation in the national legislation of Ukraine in the field of implementation and protection of creative activities, but also to help eliminate the numerous gaps in the legal system of our country.

[1] Геллер, П. (1998). Конфликт законов в киберпространстве: международное авторское право. *Бюллетень по авторскому праву*, *1*, *XXXI*. <https://jurisprudence.club/mejdunarodnoe-pravo-uchebnik/mejdunarodno-pravovoe-regulirovanie-avtorskih.html> (2021, February, 28).

Ensuring favorable conditions in Ukraine for the creation and use of intellectual property objects, the results of scientific research by both domestic and foreign entrepreneurs requires further development of the legislative and regulatory framework[1].

Taking into account the recently formed system of intellectual property law, the lack of scientific papers on this topic simultaneously provides a field for research and at the same time provides a lack of analytical judgments of legal experts.

In many textbooks, legal authors give a list of international conventions that can be considered as the very sources of copyright that are necessary to take into account in the construction of a system of legislation in the field of copyright approval and protection. Some authors give a more detailed analysis of the existing international acts in terms of their adaptation in the national legislation of Ukraine, while the necessary recommendations for improving the current legislation of Ukraine are practically absent.

Research analysis. In Soviet times, the analysis of international acts regulating the implementation and protection of creative activity was carried out by such jurists as: M. Kuznetsov in the book «Protection of the results of creative activity in Private International Law», as well as M. Boguslavsky, Y. Matveev, V. Shatrov. Nowadays, the analysis of international acts is carried out by such authors as: V. Paliyuk, E. Leanovich, R. Ennan, D. Kobylyatsky, V. Antonov in their work «Intellectual property and computer copyright».

The purpose of the study of the material is the need to consider international norms that can complement national legislation and thus become a necessary key in the formation and improvement of the existing volume of normative legal acts of Ukraine regulating legal relations in the field of human creative activity.

Main material.

The role and influence of international acts on the legislation of Ukraine is quite large and there are discussions among legal scholars about the place of international acts from the vertical of the hierarchy of Ukrainian legislation. Some authors claim that there is a common approach to this issue, while others speak of a special approach: «...in our state there is a common approach regarding the place of international treaties in the vertical hierarchy of Ukrainian legislation. In accordance with it, the current international treaties of Ukraine, the consent of which is given by the Verkhovna Rada of Ukraine, occupy a second place after the Constitution of Ukraine, at the same time having precedence over the industry legislation of our state. The latter, respectively, occupy the third place in the specified vertical hierarchy of Ukrainian legislation»[2].

Regarding the special approach, the opinion of legal scholars, in particular, M. Savenko, is as follows: «...in the national legal system of Ukraine, international human rights acts recognized by the state should be given priority, including with regard to the norms of the Constitution of Ukraine. This conclusion follows from the provisions of the first part of Article 3 of the Constitution of Ukraine, according to which a person, his life and health, honor and dignity, inviolability and security are recognized as the highest social value in Ukraine.

Granting a person such a high status also determines an adequate set of rights and freedoms at a level not lower than world standards»[3].

«...the norms of an international treaty, as a result of a transformation understood in the widest sense of the word, become the norms of domestic law and thus the norms of private international law applied by a given State. Transformation is carried out by adopting an internal law or other normative act»[4].

The degree of effectiveness of the legal norms regulating the creative activity of a person at the legal level depends on the correct interpretation of the norms contained in international acts and agreements, on the quality and level of professionalism in the process of adapting and implementing these norms to the legislation of Ukraine.

---

[1] Антонов, В. (2006). *Інтелектуальна власність і комп'ютерне авторське право*. Київ: КНТ, 114.

[2] Паліюк, В. (2012). Застосування рішень Європейського Суду з прав людини – недоліки та перспективи. *Правове забезпечення ефективного виконання рішень і застосування практики Європейського суду з прав людини. Збірник наукових статей Міжнародної науково-практичної конференції (Одеса, 15 вересня 2012 р.)* <http://dspace.onua.edu.ua/bitstream/handle/11300/9608/Paliiuk%20354-362.pdf?sequence=1&isAllowed=y> (2021, March, 14).

[3] Савенко, М. (2006). Співвідношення судової практики Конституційного Суду України із судовою практикою Європейського суду з прав людини. *Вісник Конституційного Суду України,* 1, 34.

[4] Богуславский, М. (1994). *Международное частное право*. Москва <http://lib.maupfib.kg/wp-content/uploads/2015/12/chasnoe_pravo.pdf > (2021, February, 26).

In some sources, it is believed that «the first multilateral treaty in the field of copyright protection was the Berne Convention for the Protection of Literary and Artistic Works of 1886. The Convention was repeatedly revised (in 1896-in Paris, in 1908-in Berlin, in 1928 – in Havana, in 1948 – in Brussels, in 1967-in Stockholm, the last revision took place in 1971 in Paris and was amended on October 2, 1979)»[1].

Painstaking work on creating a legal tool for copyright protection was started in Brussels in 1858 during the Congress of authors of works of literature and creativity. After that, congresses were held in Antwerp (1861 and 1877), in Paris (1878), since 1883, work was continued in Bern, where in 1886, after three diplomatic conferences, an international agreement was created, which was called the «Berne Convention for the protection of literary and literary documents works of art»[2].

Following the analysis of the norms contained in the Berne Convention, which Y. Matveev offers in his publication «International Copyright Conventions», you can read his opinion: «To solve the main problems faced by the creators of the Berne Convention – conflicts of character and differences in national legislation – two basic principles were developed: the principle of assimilation, or national regulation, and the principle of the minimum amount of protection. The principle of assimilation meant that a foreigner in a country party to the convention was granted rights to the extent determined for its citizens (Article 2). The principle of minimum protection required the establishment of boundaries below which the level of copyright protection of a foreigner could not fall. Of particular interest is the analysis of the basic rule for the recognition of protection under the 1886 Convention.

Theoretically, we can proceed from two conditions: territorial and national. The first meant the recognition of protection for a work first published in the territory of a member State of the Convention, regardless of the nationality of the author, and the second – granted protection to a work whose author is a citizen of a member state, regardless of the place of initial publication of the work. The territorial principle was primarily meant to protect the rights of publishers and booksellers, who were able to protect the works published on their territory, regardless of the nationality of the authors. Thus, the works of citizens of the United States who were not members of the Berne Convention enjoyed protection in France (the country of the Berne Convention), if they were first published there. If a Frenchman published a work in the United States, it was not protected. At the same time, the work of the French author was protected regardless of the place of its publication»[3].

The main norms contained in the Berne Convention for the Protection of Literary and Artistic Works, to which Ukraine has acceded in accordance with the Law of Ukraine On Accession to the Berne Convention for the Protection of Literary and Artistic Works (Paris Act of 24 July 1971, amended on 2 October 1979) No. 189/95-BP of 31.05.1995, are the following important provisions:

– the establishment and definition of the term «Literary and artistic works» (paragraph (1) of article 2 of the Berne Convention), which formed the basis of the law of Ukraine «On copyright and related rights» (in particular, article 8);

– established the legal regime of translations, adaptations, musical orangeroot and other treatments of literary or artistic works, which consists in equating the specified objects to the legal regime that applies to original works – paragraph(3) of article 2 of the Berne Convention;

– fixed the legal regime of notifications on the news of the day, notifications on various events that have the nature of a simple press conference, according to which legal protection is not provided-paragraph (8) of Article 2 of the Berne Convention[4].

According to the provisions of the Convention, the countries of the Union have the right, within the limits of national law, not to grant protection to certain types of works (official texts, speeches, addresses, lectures, works of applied art, as well as works that are not expressed in material form). In addition, taking into account the interests of society and the needs of undeveloped countries, the act provides for restrictions on the exclusive rights of the author. Thus, without the consent of the author, it is allowed to cite a published work with a reference to the author and the source of borrowing, to make copies of the work for their own

[1] Ануфриева, Л. (2000) *Международно-правовое регулирование авторских прав. Многосторонние конвенции в области авторского права* <https://jurisprudence.club/mejdunarodnoe-pravo-uchebnik/mejdunarodno-pravovoe-regulirovanie-avtorskih.html> (2021, February, 26).

[2] Коваленко, Т. (2013) З історії розвитку міжнародного законодавства щодо захисту авторського права. *Теория і практика інтелектуальної власності*, *3*, 36.

[3] Матвеев, Ю. (1978). *Международные конвенции по авторскому праву*. Москва: Международные отношения, 8-9.

[4] *Бернська Конвенція про охорону літературних і художніх творів, п. 8, ст.2, 1971* (Всесвітня організація інтелектуальної власності). *Офиційний сайт Верховної Ради України* <https://zakon.rada.gov.ua/laws/show/995_051#Text> (2021, March, 01).

(private) use. Abbreviated terms for the protection of works and the issuance of compulsions, licenses for the use of works for scientific, educational and informational purposes can also be used[1].

The Berne Convention has undergone some changes throughout its existence and has been revised several times:

1. The first changes were made on April 15, 1896 in Paris – the Convention defined the concept of publications, which was equivalent to «the production of copies», and also adopted a clarification to Article 3, according to which protection was granted to works that were first published in a member country, even if the author was a citizen of a country that was not part of the Berne Union.

2. The next stage was the changes made at the Berlin Conference in 1908 – the rejection of all formalities, even if they are present in the country of the first publication; the inclusion in the list of objects of protection of the Berne Convention of choreographic, pantomime, cinematographic, photographic works and works of architecture; the recognition of the validity of the translation for the entire duration of copyright without any restrictions; the term of copyright protection is 50 years after the death of the author.

3. The Rome Conference of 1928 provided for such innovations:

– recognition of the protection of the rights of the author when broadcasting their works on the radio; increase the level of copyright protection by including oral literary works (lectures, speeches, sermons) to the works protected by this Convention; recognition of the personal rights of authors even after the alienation of their material rights.

4. The changes in Brussels in 1948 aimed at the complete unification of the provisions of the Convention and national legislation, taking into account the new conditions of technical and scientific development by strengthening the primacy of the Convention over the legislation of countries.

5. The Protocol of the Stockholm Conference of 1967 records such innovations:

improvement of the criteria for the application of the Convention and the definition of the country of origin and publication; establishment of the right to reproduction; special treatment of cinematic works and works that are equated with them; expansion of the personal rights of the author; extension of the term of copyright protection.

Attention should also be paid to the Convention on Literary and Artistic Property of 1889, which was signed in Montevideo. «Unlike the Berne Convention, the Montevideo Convention recognized the protection of photographic and choreographic works. Unpublished works have not received protection, as well as works published before the entry into force of the convention. Finally, the Montevideo Convention made no mention of formalities. Thus, the person applying for protection does not need to prove the fact of their implementation in the country of the first publication, as it was provided for in the Berne Convention as amended in 1886»[2].

At the time of the signing of the Montevideo Convention in 1889, the Berne Convention did not contain the right of translation and did not define this right as a subjective power. The Convention of 1889 contained the right to present and perform dramatic and musical works. The country of the first publication is the determinant for the extent of the necessary protection of such a work, and other countries provide the same amount of protection for this work. Responsibility must come under the law of the country in which the offense was committed. For these reasons, it can be considered that the Convention signed in 1889 in Montevideo has found adaptation on other continents and, of course, has become a kind of source of national legislation in other countries.

The following Conventions followed:

- Convention for the Protection of Literary and Artistic Property, signed in Mexico City in 1902;

– Convention for the Protection of Patents for Inventions, Industrial Drawings and Designs, Trademarks, Trade Marks and Literary and Artistic Property (Rio de Janeiro, 1906), which provided for the protection of not only copyright, but also industrial property;

– Convention for the Protection of Literary and Artistic Property, signed in Buenos Aires in 1910. The Convention has an impact on literary and artistic works. This concept includes:

• choreographic and musical works, drawings, sculptures, engravings;
• dramatic pieces;
• photographic works, sketches, plans, astronomical or geographical models of the Earth;
• geological and topological works, architectural and other scientific works.

[1] Шемшученко Ю.С. (1998). Бернська Конвенція про охорону літературних і художніх творів. *Юридична енциклопедія* <https://leksika.com.ua/11620809/legal/bernska_konventsiya_pro_ohoronu_literaturnih_ta_hudozhnih_tvoriv> (2021, February, 21).

[2] Матвеев, Ю. (1978). *Международные конвенции по авторскому праву*. Москва: Международные отношения, 17.

The Convention recognizes the presumption of authorship, which means that the person indicated on the copy as the author is such, unless proven otherwise. Also, the author has the right to indicate his pseudonym instead of his own name.

What was different from the Berne Convention was that a work was protected only if it contained information about copyright protection. Not quite clear wording gave an unclear interpretation of this rule. In a general sense, it was necessary to leave a notice for third parties on copyrighted copies: with the phrase «All rights reserved»[1].

– The Convention on the Protection of Literary and Artistic Property, revised at the VI Pan-American Conference (Havana, 1928), according to which cinematographic works, as well as works of applied art were included in the works subject to protection[2].

– The Pan-American Convention on Copyright in Literary, Scientific and Artistic Works (Washington, 1946), which «recognized two personal non-property rights, the right of authorship and the right to inviolability of the work, just as in the Berne Convention of 1886. However, in contrast to the increasing regulation of the Berne Convention of 1886, the regulation of the right to inviolability in the Pan-American Agreements (from the first to the last) was weakened. In addition, both of the author's moral rights in the Pan-American System had lost their status as inalienable by 1946»[3].

– The World Copyright Convention (Geneva, 1952), according to which the mere fact of the creation of a work is not sufficient to grant copyright protection to works. In order for a work to receive the necessary protection and for its copyright to be determined in accordance with the Universal Copyright Convention, it was necessary to comply with the conditions established by the Convention: «any Contracting State that, in accordance with its domestic law, requires, as a condition of copyright protection, compliance with such formalities as the deposit of copies, registration, reservation of rights, notarial certificates, payment of fees, production or publication in the territory of that State, the author of the work, which is not a national of that State, shall consider these conditions fulfilled in respect of all works protected under this Convention and first issued outside the territory of that State, if, from the first issue of that work, all copies of it issued with the permission of the author or another person holding the copyright bear the mark (C) (*) with the name of the person holding the copyright the sign, name and year of issue must be indicated in such a way and in such a place that it is clearly visible that the author's rights are protected (Part 1 of Article III of the Convention). And the minimum term of copyright protection established by the Universal Copyright Convention is twenty-five years (paragraph a), part 2, Article IV of the Convention)»[4].

Meaning by «UCC» the Universal Copyright Convention, by «BC» the Brussels Convention, and by «WTO/TRIPS» the World Trade Organization/ Agreement on Trade-Related Aspects of Intellectual Property Rights by Silke von Lewinsky, Associate Professor at the Franklin Pierce Law Center in Concord, New Hampshire, USA, states:

«Currently, the value of the UCC is against the background of a number of countries and scenarios where it is still applicable...very modest. It is unlikely that the UCC will get any new value in the future… And if the UCC may be more favorable for developing countries that do not yet have a highly developed infrastructure or cultural industry – after all, the purpose of the UCC was to allow certain countries with a low level of development to join the international copyright community – then it is unlikely that they will go to the denunciation of the BC, the WTO/TRIPS Agreement... not least because many of them are interested in becoming WTO members, and for reasons other than the need to protect intellectual property»[5].

The decision of the Verkhovna Rada of Ukraine of 23.12.1993 approved Ukraine's accession to the World Convention as the legal successor, since the USSR joined it in 1973.

– The Convention establishing the World Intellectual Property Organization was signed in Stockholm on 14 July 1967 and amended on 2 October 1979. «Analyzing the Convention approving the World

[1] Wikipedia (2021). *Буэнос – Айресская конвенция* <https://ru.wikipedia.org/wiki/Буэнос-Айресская_конвенция> (2021, February, 21).

[2] Матвеев, Ю. (1978). *Международные конвенции по авторскому праву*. Москва: Международные отношения, 21.

[3] Луткова, О. (2018). Трансграничные авторские отношения: материально-.правовое и колизионно – правовое регулирование: *диссертация на соискание ученой степени доктора юридических наук*. Москва: Московский государственный юридический университет имени О.Е. Кутафина, 231.

[4] *Всемирная конвенция об авторском праве, 1971* (ЮНЕСКО). *Официальный сайт Верховной Рады Украины* <https://zakon.rada.gov.ua/laws/show/952_006#Text> (2021, February, 22).

[5] Левински, С. Ф. (2006). Роль и будущее Всемирной конвенции об авторском праве. *Бюллетень ЮНЕСКО по авторскому праву*, *4 октябрь–декабрь* <https://unesdoc.unesco.org/ark:/48223/pf0000157846_rus> (2021, February, 23).

Intellectual Property Organization (signed in Stockholm on July 14, 1967 and amended on October 2, 1979), M. Kuznetsov records that «the term» intellectual property «came to the legal literature from French law and received a wide international vocation in connection with the development and adoption of the above-mentioned WIPO Convention in 1967. In 1974, WIPO became a specialized agency of the United Nations»[1].

«The second draft of the Model Copyright Law for Developing Countries was developed in 1973 and included changes to the Berne and World Copyright Conventions that took place in 1971. He influenced the adoption of copyright laws in Senegal and Algeria in 1973, in Ivory Coast in 1978, and in Cyprus in 1976 and some other countries»[2].

– Agreement on Cooperation in the field of protection of Copyright and Related Rights of September 24, 1993, ratified by the Law of Ukraine «On Ratification of the Agreement on Cooperation in the field of Protection of Copyright and Related Rights» No. 34/95 – BP of January 27, 1995.

– The Treaty of the World Intellectual Property Organization on Copyright, adopted by the Diplomatic Conference on December 20, 1996, is an agreement concluded within the framework of the Berne Convention, focused on the protection of the rights of the author in the field of digital technologies. This document mentions two objects protected by copyright: (Article 4) computer programs that have a protection regime similar to literary works, regardless of the method and form of expression; and (Article 5) compilation of data or other information in any form that, by virtue of the selection or organization of their content, is the result of intellectual creativity. This Agreement also establishes: the right to distribute (Article 6), the right to rent (Article 7), the right to distribute to the general public (Article 8). Ukraine joined this Agreement in accordance with the Law of Ukraine «On Ukraine's Accession to the Agreement of the World Intellectual Property Organization on Copyright» of 20.09.2001[3].

–At the 33rd Session, on 20 October 2005, the UNESCO General Conference adopted the Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The objectives of this international Instrument are: to protect and promote the diversity of cultural expressions; to create conditions for the flourishing and free interaction of different cultures on a mutually beneficial basis; to promote dialogue among cultures in order to ensure broader and more balanced cultural exchanges around the world in the interests of mutual respect for cultures and the culture of peace; promoting intercultural interaction for the development of cross-cultural interaction in a spirit of building bridges between peoples; promoting respect for and awareness of the value of cultural diversity at the local, national and international levels; reaffirming the importance of the relationship between culture and development for all countries, especially developing countries, and supporting actions taken at the national and international levels to ensure that the true value of this relationship is recognized; recognition of the special nature of cultural activities and cultural goods and services as carriers of identity, values and meaning; affirmation of the sovereign right of States to support, adopt and implement policies and measures that they deem appropriate to protect and promote the diversity of cultural expressions within their territories; Strengthening international cooperation and solidarity in a spirit of partnership, in particular to enhance the capacity of developing countries to protect and promote the diversity of cultural expressions (Article 1 of the Convention)[4].

In addition to the list of international documents that regulate the implementation and protection of the right to creativity, the convention for the protection of human rights and fundamental freedoms can also be included. According to V. Kryzhnaya: «...Article 1 of Protocol No. 1 of the convention for the protection of human rights and fundamental freedoms can be applied to the protection of intellectual property rights in the European Court of human rights. And taking into account that the courts of Ukraine use as a source of law when considering cases the convention for the protection of human rights and fundamental freedoms and the practice of the European Court of human rights and the European Commission on human rights, if it is necessary to protect the rights of intellectual property in the courts of Ukraine, you can use Article 1

[1] Кузнецов, М. (1988). *Охрана результатов творческой деятельности в международном частном праве*. Москва: УДН , 51.

[2] Ibid, 66.

[3] *Договір Всесвітньої організації інтелектуальної власності про авторське право, прийнятий Дипломатичною конференцією 20 грудня 1996 року та положення Бернської конвенції (1971 р.), на які містяться посилання у Договорі (Договір ВОІВ про авторське право), 1996* (Всесвітня організація інтелектуальної власності). *Офіційний сайт Верховної Ради України.* <https://zakon.rada.gov.ua/laws/show/995_770#Text> (2021, March, 15).

[4] *Конвенция об охране и поощрении разнообразия форм культурного самовыражения, 2005* (Организация объединенных наций). *Официальный сайт Организации Объединенных Наций* <https://www.un.org/ru/documents/decl_conv/conventions/pdf/cult_diversity.pdf> (2021, March, 15).

«protection of property» of Protocol No. 1 of the convention for the protection of human rights and fundamental freedoms along with other norms of Ukrainian legislation»[1].

Conclusions: despite the fact that in Ukraine there are «quite strict administrative and criminal penalties, which also cover responsibility for counterfeiting and piracy in the field of copyright and related rights. It is necessary to achieve effective or law enforcement in the fight against counterfeiting and piracy»[2].

Analyzing the opinion of the legal adviser V. Paliyuk that «...the application by the courts of Ukraine of the provisions of the convention for the protection of human rights, fundamental freedoms and decisions of the European Court of Justice indicates that the courts of Ukraine can provide fair judicial protection, which is aimed at: a) establishing a balance between the presence of human rights and freedoms on the one hand, as well as the understanding and compliance of these rights by the state – with another one; b) the implementation of justice at a level that would guarantee everyone the right to a fair trial when determining their civil rights and obligations or when making any criminal charges against them; c) the strong legal potential of the provisions of the convention for the protection of human rights, fundamental freedoms and decisions of the European Court of Justice», Valentina Kryzhnaya notes: «if we extend this trend towards intellectual property, it will contribute to the effective protection of rights in this area»[3].

Based on the listed norms enshrined in international documents, an important lever for restucturizing and eliminating gaps in the legislation of Ukraine will be the creation of a separate body, separate courts for the protection of violated rights in the field of intellectual property, which will gradually become part of the mechanism of state protection of «creative figures», as well as a «mechanism» for the implementation of international norms regulating creative activity in full, since «certain provisions of the Civil, Administrative and Criminal Codes of Ukraine require amendments and additions, antimonopoly, tax and customs legislation, which concerns the protection of this form of ownership. These changes and additions should take into account the need to harmonize current laws with the requirements of international agreements and agreements to which Ukraine is a participant, as well as with the requirements of the WTO (TRIPS Agreement)…»[4].

The listed international documents can become in many respects the basis for a reference point in building and improving the national legislation of Ukraine, while it is important to take into account the experience of developed countries in the protection of intellectual property, since these countries give a significant role to the internal affairs bodies, in which there are special police and prosecutor's offices, whose powers include only issues related to legal relations in the field of intellectual property, investigative and copyright protection. In some States, special courts, such as the intellectual property courts, protect infringed intellectual property rights.

This experience is important for developing countries, as the presence of disputes, which are increasingly taking place in Ukraine, will become a source of additional payments, and special bodies may well become a protective tool against evasion of the necessary taxes to the state by the owners of intellectual property, persons who exercise their subjective right to creativity, create an intellectual property product.

References:

1. Heller, P. (1998). Konflykt zakonov v kyberprostranstve: mezhdunarodnoe avtorskoe pravo [Conflict of laws in the cyberspace: international copyright]. *Biulleten po avtorskomu pravu* [Copyright Bulletin], *1, XXXI*. <https://jurisprudence.club/mejdunarodnoe-pravo-uchebnik/mejdunarodno-pravovoe-regulirovanie-avtorskih.html> (2021, February, 28). [in Russian].
2. Antonov, V. (2006). *Intelektualna vlasnist i kompiuterne avtorske pravo* [Intelectual power and complex copyright]. Kyiv: KNT. [in Ukrainian].
3. Paliyuk, V. (2012). Zastosuvannya rishen Yevropeyskoho Sudu z prav lyudyny – nedoliky ta perspektyvy [Application of judgments of the European Court of Human Rights – shortcomings and prospects]. *Pravove zabezpechennya efektyvnoho vykonannya rishen i zastosuvannya praktyky Yevropeyskoho sudu z prav lyudyny. Zbirnyk naukovykh ctatey Mizhnarodnoyi naukovo-praktychnoyi konferentsiyi (Odesa, 15.09.2012)* [Legal support for the effective implementation of decisions and application of the case law of the European Court of Human Rights. Proceedings of the International Scientific and Practical Conference (Odessa, 15.09.2012)]

[1] Крижна, В. (2013). Захист прав інтелектуальної власності за статтею 1 першого Протоколу Конвенції про захист прав людини і основоположних свобод. *Теорія і практика інтелектуальної власності, 3*, 46-47.
[2] Дроб'язко, В. (2013). Адміністративна та кримінальна відповідальність в України за контрафакцію і піратство в сфері авторського права й суміжних прав. *Теорія і практика інтелектуальної власності, 3*, 53.
[3] Крижна, В. (2013). Захист прав інтелектуальної власності за статтею 1 першого Протоколу Конвенції про захист прав людини і основоположних свобод. *Теорія і практика інтелектуальної власності, 3*, 46-47.
[4] Антонов, В. (2006). *Інтелектуальна власність і комп'ютерне авторське право*. Київ: КНТ, 114.

<http://dspace.onua.edu.ua/bitstream/handle/11300/9608/Paliiuk%20354-362.pdf?sequence=1&isAllowed=y> (2021, March, 14). [in Ukrainian].
4. Cavenko, M. (2006). Spivvidnoshennia sudovoi praktyky Konstytutsiinoho Sudu Ukrainy iz sudovoiu praktykoiu Yevropeiskoho sudu z prav liudyny [Correlation of the case law of the Constitutional Court of Ukraine with the case law of the European Court of Human Rights]. *Visnyk Konstytutsiinoho Sudu Ukrainy* [Bulletin of the Contitutional Court of Ukraine], *1*, 34. [in Ukrainian].
5. Bohuslavskyi, M. (1994). *Mezhdunarodnoe chastnoe pravo* [Private international law]. Moskow <http://lib.maupfib.kg/wp-content/uploads/2015/12/chasnoe_pravo.pdf > (2021, February, 26). [in Russian].
6. Anufryeva, L. (2000) *Mezhdunarodno-pravovoe rehulyrovanye avtorskykh prav. Mnohostoronnye konventsyy v oblasty avtorskoho prava* [International Copyright Law Multilateral Copyright Conventions] <https://jurisprudence.club/mejdunarodnoe-pravo-uchebnik/mejdunarodno-pravovoe-regulirovanie-avtorskih.html> (2021, February, 26). [in Russian].
7. Kovalenko, T. (2013). Z istorii rozvytku mizhnarodnoho zakonodavstva shchodo zakhystu avtorskoho prava [On the history of the development of international copyright law]. *Teoryia i praktyka intelektualnoi vlasnosti* [Intellectual property theory and practice , 3, 36. [in Ukrainian].
8. Matveev, Yu. (1978). *Mezhdunarodnыe konventsyy po avtorskomu pravu* [International copyright conventions]. Moskow: Mezhdunarodnie otnoshenyia, 17. [in Russian].
9. *Bernska Konventsiia pro okhoronu literaturnykh i khudozhnikh tvoriv, p.8 st.2, 1971* (Vsesvitnya orhanizatsiya intelektualnoyi vlasnosti) [Bern Convention for the Protection of Literary and Artistic Works, 1971, paragraph 8, of Article 2 (World Intellectual Property Organization)]. *Ofytsiinyi sait Verkhovnoi Rady* Ukrainy [The official website of the Verkhovna Rada of Ukraine]. *<https://zakon.rada.gov.ua/laws/show/995_051#Text> (2021, March, 01).* [in Ukrainian].
10. Shemshuchenko Yu.S. (1998). Bernska Konventsiya pro okhoronu literaturnykh i khudozhnikh tvoriv [Berne Convention for the Protection of Literary and Artistic Works]. *Yurydychna entsyklopediya* [Legal encyclopedia] <https://leksika.com.ua/11620809/legal/bernska_konventsiya_pro_ohoronu_literaturnih_ta_hudozhnih_tvoriv> (2021, February, 21). [in Ukrainian].
11. Wikipedia (2021). *Buenos – Airesskaia konventsyia* [Buenos Aires Convention]. <https://ru.wikipedia.org/wiki/Буэнос-Айресская_конвенция> (2021, February, 21). [in Russian].
12. Lutkova, O. (2018). Transhranychnie avtorskye otnoshenyia: materyalno-.pravovoe y kolyzyonno – pravovoe rehulyrovanye [Cross-border copyright relations: material and legal regulation]: *dyssertatsyia na soyskanye uchenoi stepeny doktora yurydycheskykh nauk* [The thesis for a degree of the doctor of jurisprudence]. Moskow: Moscow State Law University named after O.E. Kutafina. [in Russian].
13. *Vsemyrnaia konventsyia ob avtorskom prave, 1971* (YUNESKO) [World Copyright Convention, 1971 (UNESCO)]. *Ofytsyalniy sait Verkhovnoy Rady Ukrayny* [The official website of the Verkhovna Rada of Ukraine]. <https://zakon.rada.gov.ua/laws/show/952_006#Text> (2021, February, 22). [in Russian].
14. Levynsky, S. F. (2006). Rol y budushchee Vsemyrnoy konventsyy ob avtorskom prave [Role and future of the World Copyright Convention]. *Biulleten YuNESKO po avtorskomu pravu, 4 oktiabr–dekabr* [UNESCO Copyright Bulletin, 4 October-December] <https://unesdoc.unesco.org/ark:/48223/pf0000157846_rus> (2021, February, 23). [in Russian].
15. Kuznetsov, M. (1988). *Okhrana rezultatov tvorcheskoi deiatelnosty v mezhdunarodnom chastnom prave* [Protection of creative results in private international law]. Moskow: UDN. [in Russian].
16. *Dohovir Vsesvitnoi orhanizatsii intelektualnoi vlasnosti pro avtorske pravo, pryiniatyi Dyplomatychnoiu konferentsiieiu 20 hrudnia 1996 roku ta polozhennia Bernskoi konventsii (1971 r.), na yaki mistiatsia posylannia u Dohovori (Dohovir VOIV pro avtorske pravo), 1996* (Svitova orhanizatsiya intelektualnoyi vlasnosti) [The World Intellectual Property Organization Copyright Treaty, adopted by the Diplomatic Conference on 20 December 1996 and the provisions of the Berne Convention (1971), to which reference is made in the Treaty (WIPO Copyright Treaty), 1996 (World organization of intellectual property)]. *Ofytsiinyi sait Verkhovnoi Rady Ukrainy* [The official website of the Verkhovna Rada of Ukraine]. <https://zakon.rada.gov.ua/laws/show/995_770#Text> (2021, March, 15). [in Ukrainian].
17. *Konventsyia ob okhrane y pooshchrenyy raznoobrazyia form kulturnoho samovyrazhenyia* (2005) [Convention on the Protection and Promotion of the Diversity of Cultural Expressions]. *Orhanyzatsyia objedynennykh natsyi* [United Nations]. <https://www.un.org/ru/documents/decl_conv/conventions/pdf/cult_diversity.pdf> (2021, March, 15). [in Russian].
18. Kryzhna, V. (2013). Zakhyst prav intelektualnoi vlasnosti za statteiu 1 pershoho Protokolu Konventsii pro zakhyst prav liudyny i osnovopolozhnykh svobod [Protection of intellectual property rights under article 1 of the first Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms]. *Teoriia i praktyka intelektualnoi vlasnosti* [Theory and practice of intellectual property], *3*, 46-47. [in Ukrainian].
19. Drobiazko, V. (2013). Administratyvna ta kryminalna vidpovidalnist v Ukrainy za kontrafaktsiiu i piratstvo v sferi avtorskoho prava y sumizhnykh prav [Administrative and criminal liability in Ukraine for counterfeiting and piracy in the field of copyright and related rights]. *Teoriia i praktyka intelektualnoi vlasnosti* [Theory and practice of intellectual property], *3*, 53. [in Ukrainian].