



Analysis of possible legal risks for right holders and users of Creative Commons licenses in Uzbekistan

Orifova Mukhabbatkhon Zokhidjon qizi

Master`s student at Tashkent State University of Law

E-mail: muhabbat.orifova@gmail.com

<https://doi.org/10.5281/zenodo.11354258>

ARTICLE INFO

Received: 24th April 2024

Accepted: 25th May 2024

Published: 27th May 2024

KEYWORDS

ABSTRACT

Creative Commons licenses are a popular tool for the free distribution of intellectual property in many countries around the world. However, the implementation of open licensing models faces certain legal risks, especially in countries with an emerging legal system in the field of intellectual property protection. Below we will analyze possible legal risks for right holders and users of Creative Commons licenses in the Republic of Uzbekistan.

Compliance with national legislation. One of the key risks when using Creative Commons licenses in Uzbekistan is the need to carefully align the provisions of these licenses with the copyright and intellectual property legislation in force in the country. Inconsistency between the terms of the adapted Creative Commons licenses and the norms of the national legislation may call into question the legal validity of such licenses.

Special attention should be paid to the following aspects when adapting Creative Commons licenses to the national legal realities of Uzbekistan:

- *Regulation of exclusive rights.* Creative Commons licenses grant users certain rights to use works, which may not fully correspond to the list of exclusive rights enshrined in Uzbekistan's copyright law. The scope of rights transferred under Creative Commons licenses should be carefully checked against national norms.

- *Author remuneration.* Creative Commons licenses, as a rule, imply a gratuitous transfer of rights to use works. In accordance with part one of Article 39 of the Law of the Republic of Uzbekistan "On Copyright and Related Rights", the author's contract must provide for the amount of remuneration and (or) the procedure for determining the amount of remuneration for each method of use of the work, the procedure and terms of its payment¹.

- *Free use of works.* Creative Commons licenses provide users with wide opportunities for free use of works for personal, non-commercial and other purposes.

According to the legislation of the Republic of Uzbekistan, the author of the object of copyright and related rights has personal non-property and property rights of which property rights may be transferred by the author to other persons, the use of the author's work without his permission and without concluding a contract of some kind entails a violation of the legislation of the Republic of Uzbekistan on copyright and entails liability for the actions

¹ Law of the Republic of Uzbekistan "On Copyright and Related Rights". [Electronic resource]: National database of legislation of the Republic of Uzbekistan (www.lex.uz). Access mode: <https://lex.uz/docs/1023494>

committed, but the Law of the Republic of Uzbekistan “On Copyright and Related Rights” provides for cases when the author is allowed to use the work of the author without his permission and without concluding a contract of some kind.

Article 25 of the Law of the Republic of Uzbekistan “On Copyright and Related Rights” establishes that the reproduction of a publicized work for private purposes is permitted without the consent of the author or other right holder and without payment of remuneration. “The commented article provides for cases when reproduction of a publicized work for private purposes shall not apply to: reproduction of works of architecture in the form of buildings and structures; reproduction of databases or substantial parts thereof; reproduction of computer programs, except in cases provided for by law; reprographic reproduction of books (as a whole) and musical texts²”.

The key difference is that the article in this law on the use of works for personal purposes is limited to those purposes, while under Creative Commons licenses users will have access to the work not only for personal purposes, but also for commercial gain.

According to Article 26 of the Law of the Republic of Uzbekistan “On Copyright and Related Rights”, the free use of a work is allowed with the obligatory indication of the name of the author and the source of borrowing, provided that this does not harm the normal use of the work and does not infringe on the legitimate interests of the author³. Let's compare this article with the legal tool Creative Commons Zero, the difference is that Creative Commons Zero completely refuses any restrictions on the use of the work. Under Creative Commons Zero, the work is placed in the public domain and anyone can use it completely freely, without having to cite the author or source. While the law still imposes certain conditions on the use of the work - attribution of the author and source, and the requirement that it does not prejudice normal use or infringe on the author's legitimate interests.

Lack of official translation. The absence of an official translation of Creative Commons licenses into the Uzbek language creates serious problems that may negatively affect legal certainty in their use in the Republic of Uzbekistan. In the absence of an official translation, right holders and users will be forced to translate the texts of the licenses themselves and this may lead to inaccuracies, distortion of meaning and misinterpretation of certain provisions of the licenses.

In the absence of an official translation, each party will rely on its own translation, which increases the risk of differing understandings of the license terms, and differences in understanding and interpretation of the license terms create legal uncertainty as to the scope of the rights granted, permissible uses, obligations of the parties and other key aspects. This increases the risk of disputes and litigation.

Careful coordination of these key aspects when adapting Creative Commons licenses to the legal environment of Uzbekistan will contribute to minimizing the risks of non-compliance with national legislation and ensuring legal certainty for right holders and users.

References:

1. Law of the Republic of Uzbekistan “On Copyright and Related Rights”.

² Commentary to the Civil Code of the Republic of Uzbekistan (Part 2). Professional commentary. vol. 3. - Tashkent: Ministry of Justice of the Republic of Uzbekistan, SMI-ASIA, 2011. C.405

³ Law of the Republic of Uzbekistan “On Copyright and Related Rights”. [Electronic resource]: National database of legislation of the Republic of Uzbekistan (www.lex.uz). Access mode: <https://lex.uz/docs/1023494>

2. Commentary to the Civil Code of the Republic of Uzbekistan (Part 2). Professional commentary. vol. 3. - Tashkent: Ministry of Justice of the Republic of Uzbekistan, SMI-ASIA, 2011. 736 P.
3. <https://lex.uz>

