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NATIONAL PROTECTION OF THE INTELLECTUAL RIGHTS OF
BROADCASTING ORGANIZATIONS

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ABSTRACT:

This research aims to determine the national protection for works prepared by broadcasting organizations, and the importance of this study is shown by determining the scope of national protection for works prepared by broadcasting organizations, and the means of their procedural, civil and criminal protection, the researcher applied the descriptive, analytical and comparative approaches to study the legal texts surrounding the nature of the subject. The Jordanian legislator has dealt with all the cases in which the work may appear to determine the term of protection. The Jordanian legislator also granted broadcasting organization programs a protection period of twenty years, and the free legislator excluded works from the scope of application of protection and considered them as acts that do not constitute an attack on the work. The research came out with several recommendations which are mentioned at the end.

INTRODUCTION:

In order to establish the optimal protection for copyright and related rights, the appropriate national legal environment must be in place to ensure that the author and the owner of the relating right can fully exercise their moral and financial rights. The existence of active national legislation to the practice would ensure that these rights are not violated and the criminalization of acts that would harm the natural right-holder's exercise of his right, when the violation on one of these rights, the legislation includes compensation for the right of the right holder of the damage and the penalty for those who cause it in line with the size of the damage, and here came this research to introduce national protection of intellectual rights of broadcasting.

IMPORTANCE OF STUDY:

The importance of the study appears in clarifying the scope of intellectual rights enjoyed by broadcasting organizations, and the importance of these rights, whereas, infringing upon these rights is an infringement of all literary and artistic property rights, and infringing on the rights of the author or authors of broadcast programs is an infringement of the rights of the performers who participated in it.

Problem of the Study:

The problem of the study lies in answering the following questions:

1. Has the national legislation recognized the literary and financial rights of broadcasting organizations for the works they prepare and the programs they broadcast?
2. Were the provisions of national legislation sufficient to achieve adequate protection for these rights?

Research Methodology:

The study is based on the descriptive, analytical and comparative method to research the study subject. The research was divided into two main sections as follows:

The first section: The scope of national protection for the intellectual rights of broadcasting organizations and the exceptions contained therein.

The second section: The means of national protection for the intellectual rights of broadcasting organizations.

The scope of national protection for the intellectual rights of broadcasting organizations and the exceptions contained therein.

National protection of the intellectual rights of broadcasting organizations are all the legal means provided by the Jordanian legislature to protect the works of broadcasting organizations and the programs they broadcast, through this section, we will deal with identifying the scope of the national protection for the intellectual rights of broadcasting organizations in the following part, and the exceptions to the national protection of the intellectual rights of broadcasting organizations.

Scope of protection for works and programs of broadcasting organizations.

The scope of protection is the area created by the legislator in which the holder of the financial right practices his right. It is linked to a period of time, then it is forfeited in the public domain, and its use becomes available to any member of society so that this use does not constitute an attack on one of the exclusive rights of the broadcasting organization. The works of audio or audiovisual broadcasting organizations are known as the works that the organization prepared or produced and accordingly acquired the copyright for what it produced. As for the protection

period, it is the period of time during which the law gives the right holder the enjoyment of the right to exploit the thing being protected. In particular, the period of protection for the works of broadcasting organizations means the temporal limitation of the author's financial rights. That is, it is the period during which the author enjoys a monopoly over the financial rights of his work before it falls into the public domain. (Al-Roumi, 2018).

There is a difference between the laws regarding the period of protection for the works that the broadcasting organization prepares or produces from one country to another, this is due to the emergence of a trend that sees intellectual production as the product of society and its traditions and knowledge, so the protection period must be short and temporary, which is the life of the author and one or two generations after him. During which the author enjoys the right to financially exploit his work, and then the product becomes available to society and can be freely traded, while the other trend sees that the works of thought do not change with time and will continue to reflect the personality of the author and that therefore they must be transmitted from one generation to another and be perpetuated with an unlimited period of time (Canaan, 1998).

Among the most prominent agreements in which the difference was prominent in relation to copyright are the global agreements on copyright that set the term of protection in the life of the author and twenty-five years after his death, this came in contradiction to the Berne Convention, which limited this period to the author's life and fifty years after his death. (Canaan, 1998).

In addition, some special legislations regarding copyright have adopted the protection period for the life of the author and twenty-five years after his death, such as the Saudi and Libyan legislations. As for Iraqi legislation, it was based on thirty years after the author's death, and Turkey granted a period of twenty years, while some countries came to agree to what was stipulated in the Berne Convention, and adopted fifty years after the author's death, including Jordan, Kuwait, the Emirates, Egypt, Algeria, Cuba, Where the text of Article (31) of the Jordanian Copyright Protection Law stated that. India relied on extending the protection period for works, which is sixty years after the author's death, while Britain adopted seventy years after the author's death (Al-Masry, 2019).

There are some criteria by which the term of protection for an audiovisual work can be determined through international agreements and national laws, and these criteria are as follows (Jaddi, 2007):

1. Work achievement criterion: this criterion means that instead of buying the protection period from the date of the author's death, this period shall be effective from the beginning of the year following the completion of the work.
2. Criterion for making the work available to the public: By this criterion, it is meant that the term of protection starts from the date the work is transferred to the

public or displayed. The Egyptian legislature has adopted this standard: "The financial rights of authors of collective works are protected for a period of fifty years starting from the date of its first publication or availability to the public, whichever is later."

3. The criterion for publishing the work: it is intended to place the work available to the public by distributors without displaying it in public halls, this is the criterion adopted by the Algerian legislator, "The term of protection of the material rights of an audiovisual work shall be fifty years, starting from the end of the civil year in which the work was published in a legitimate manner for the first time."

According to the text of Article (31) of the Jordanian Copyright Protection Law, it is clear that the Jordanian legislature was more comprehensive than previous criteria for protecting the financial rights of an audiovisual work. It did not adopt a single standard to determine the term of protection, but rather dealt with all cases in which the audio, audiovisual and similar works may appear, not only that, but an explicit provision in the same article for works prepared by a legal person, as is the case in the works of broadcasting organizations (Article 31).

Copyright laws that recognize rights relating copyright grant a period of protection for a radio or television program that is less than that which they grant to other literary and artistic works, or that it grants it to the rest of the owners of relating rights such as performers and record producers, and the reason for that is that the program does not have the advantage of original creativity (Jaddi, 2007).

Most national legislation and international conventions have granted a protection period of less than fifty years for the programs of broadcasting organizations, the most prominent of which are the Rome Convention and the TRIPS Agreement (Rome Convention 1961 and TRIPS Agreement 1994), there are many national legislations that granted a protection period of twenty years, including Jordanian legislation, Emirati legislation, Bahraini legislation and Omani legislation (See Article No. (23/3) of the Jordanian Copyright Protection Law. Article (9/20) of the UAE Copyright and Related Rights Law No. 7 of 2002; see also Article (44) of the Bahraini Copyright Protection Law No. 22 of 2006; Article (21) of the Law on Protection of Copyright and Neighboring Rights in the State of the Sultanate of Oman No. 37 of 2000.) , However, there are other countries, such as Lebanon and France, where you find that relating rights are no less important than copyright, and they have granted a protection period of fifty years.

From here we conclude that there is no difference between national legislation regarding the start of calculating the period of program protection, unlike the beginning of calculating the period of protection of audio and audiovisual works, the calculation of this period starts from the end of the year in which the session begins, whether audio or audio-visual.

Exceptions to protection for works and programs of broadcasting organizations.

What is meant by the exceptions contained in the legal protection of the rights of broadcasting organizations, are the licenses and the free use of programs and broadcasts prepared by these organizations, the fact that some works are not covered by the established protection is an exception to the general rule requiring the application of protection to works and programs for the benefit of broadcasting organizations (Al-Muhaisin, 2011).

The license to exploit the work:

Licensing in the field of copyright is defined as the License or permission granted by the author or the copyright owner (the licensor) to the beneficiary of the work (the licensee) in order to use it in the manner and according to the conditions agreed upon between them in the contract that is usually called (the license agreement), with regard to broadcasting organizations, it is the permission granted by the commission in its capacity as the right holder to another person or organization that enables it to exploit a work or programs that it broadcasts or broadcasted in return for financial compensation(Canaan, 1998).

And the licensing, which does not mean that the work is not protected, rather it requires that there be a work that is obligated to protect, but the public interest requires the use of this work, the Jordanian legislator has permitted every person to request the Ministry of Culture to grant him (a compulsory license) to copy or translate any protected work in the event that the right holder and the license applicant fail to reach an agreement that satisfies the two parties within conditions set by the law, as Article (11) of the Jordanian Copyright Protection Law stipulated the following: (Despite what is stated in Article 9 of this law: a. “Any Jordanian citizen has the right to obtain a non-exclusive and non-assignable license from the minister or whoever he authorizes to translate any foreign work published in printed form or any other form into Arabic and to publish this translation in printed form or any other similar form if passed Three years since the date of the first publication of this work, and no translation has been published in Jordan in the Arabic language by the owner of the right in the translation or with his consent, or in the event that the translated editions run out ...” (Article (11) of the Jordanian Copyright Protection Law No. 22 of 1992.).

The issuance of the license shall be by a reasoned decision specifying the temporal and spatial scope of its exploitation and the fair remuneration for the copyright owner, provided that the objective of issuing this license is always limited to meeting the needs of education of all kinds and levels or public libraries, and in a manner that ensures that unjustified harm is not inflicted on the legitimate interests of the author or his successors, or prejudices the normal exploitation of the work (Al-Muhaisin, 2011).

The license is nothing but a permission to use the work within the scope of the license granted to it. The broadcasting organization may grant a license of its own free will (an optional license) to deliver its recordings to the public, make copies, rent to other organizations, or re-broadcast, translate or adapt them, in a manner that does not conflict with the rights of the original author and does not affect the status of the Authority or its performance in exchange for a fair financial match. (Al-Roumi, 2018).

Free use of works:

This use does not require prior permission from the right owner to use the work or program, but rather acquires its legitimacy according to the law, another term appeared for this use, as some used the description of the legal licensing to denote it. The Jordanian legislator has indicated specific cases that are not considered to be an attack on the work as long as they adhere to the conditions he mentioned and do not cause any unjustified harm to the legitimate interests of the right holder as follows:

Private personal use:

It is the lawful use of the work and made available to the public by preparing a copy of the work for use by reproduction, recording, photocopying or translation, and to be used for a personal research purpose such as research, study or entertainment, That is, it is a limited use within the scope of the same person and does not involve a profit-making work, and this is what was indicated by the text of Article (17) Paragraph (B) of the Jordanian Copyright Protection Law. As for the use of the private work, it means the reproduction, translation, or adaptation of the broadcast work in any way for its use for common purposes between groups of persons, as the private use applies to any legal person. (See Article (17 / b) of the Jordanian Copyright Protection Law) (Canaan, 1998)

Presentation of the work within a family framework, an educational institution, or for scientific purposes:

Displaying the work within the family or by students inside an educational facility as an illustration for educational purposes does not violate the exclusive rights of the broadcasting organization as long as this presentation was made without obtaining direct or indirect financial compensation and that this copy of the published work was obtained legitimately without prejudice to the literary rights of the author. (Al-Muhaisin, 2011).

The Jordanian legislator has permitted the use of the work as a means of clarification in education for scientific and educational purposes, provided that this work has been broadcasted to the public and that the use includes mention of the body that owns the work and that its use does not aim at any material profit. The legislature also allows for the purposes of criticism, discussion or explanation to

cite parts of the work to the extent required by the purpose to be achieved. Provided that the source is mentioned and that the work has been broadcast to the public, otherwise it is considered an infringement of the rights of the broadcasting organization.

Means of national protection for the intellectual rights of broadcasting organizations.

As with other legislations, the Jordanian legislator has granted judicial protection to the rights of broadcasting organizations, among them are preventive measures aimed at preventing and limiting abuse of the works or programs produced by broadcasting. Through this section, we will address the identification of procedural protection in the first part and civil protection aimed at inflicting a civil penalty on whoever caused material or moral harm to the broadcasting organization in the second part, in the third part, it deals with the criminal protection represented by achieving public and private deterrence and determining the punishment for those who commit crimes against the broadcasting organization.

Procedural protection:

The forms of protection that protect works from infringement varied, and they may differ between temporary measures and conservative measures. Two basic pillars must be present in order to achieve the protection of the work, namely the formal element and the objective element. The formal element is that the work came into existence and became ready for publication, the objective element also lies in the necessity that the work contains the imprint of the broadcasting organization or press reports, this type of procedure is applied when the work is used or exploited in a way that would harm the copyright of the author or without his prior permission authorizing him to do this behavior. The Jordanian legislator stipulated that this permission be in writing and that it explicitly and in detail specify the limits of exploitation, its duration and location, as Article (9) of the Jordanian Copyright Protection Law stipulated that. (Badrawi, 2004).

There are two basic forms that procedural protection takes, as follows:

Temporal procedures:

The aim of the temporal procedures is to limit the harm that occurred to the work to the narrowest scope and to stop the harm that may result from the violation of copyright or relating rights in the future. This procedure is from the right holder, and in this case the broadcasting organization, in order to avoid the imminent or infringement that actually occurred on its rights (Abdul-Jalil, 2006), the competent court may take the measures stipulated in Article (46 / A) of the Jordanian Copyright Protection Law to stop an infringement. These procedures can be limited to the following:

- a) Conducting a detailed description of the work, which is represented by identifying the work that was assaulted in a manner that precludes obscene ignorance, meaning that this description would define the work in an accurate and detailed manner, however, after the last amendment, the Jordanian legislator canceled the previous text of Article (46 / A), which referred to "that the request includes a detailed and comprehensive description of the work that was infringed upon." (Jordanian Copyright Protection Amendment Law No. 23 of 2014, which was published in the Official Gazette, No. 5289, dated 06/01/2014)
- b) Stopping the infringement of the work or any of its parts, that stopping the infringement is a procedure that requires the judge to carefully consider the application and study the seriousness of the applicant for the financial consequences and losses that may result on the other party in the event that the applicant is not right in his request, if this assault is represented by displaying the work publicly to the public, therefore, this matter requires stopping the display, production, or production of the work, and the Jordanian legislator has ensured the protection of the work and stipulated this procedure in the event of assault on the work. This is what we find in the text of Article (46 / A) of the Jordanian Copyright Protection Law.
- c) Controlling illegal copies and the materials used in that. The Jordanian legislator, through the text of Article (47), has permitted when an assault on the work occurs that the work or the original program or its copying or the materials that were used in republishing or extracting copies shall be confiscated. The aim is to preserve the original work from being unlawfully imitated, sold or copied. In addition to this, the Jordanian legislator, in the text of Article (46/2), granted the right holder the power to submit a request to seize the invoices or documents related to illegal copying.
- d) Control of proceeds resulting from illegal exploitation, whereas, the Jordanian legislator indicated in the text of Article (3/46) of the Jordanian Copyright Law that the court has the authority to confiscate or seize the proceeds resulting from the illegal exploitation of the work which is in accordance with the Berne Convention, which referred to the same procedure.
- e) Destroying the imitations of the work, as some legislations have permitted making the illegal copies or copies that were assaulted unfit for use or work by changing their features, including the Jordanian legislator, this is what Article (47 / A) of the Jordanian Copyright Protection Law explains.

Interim measures:

These measures aim to protect the evidentiary evidence related to the right of the victim and put an end to the existing assault. This is what was brought by the Jordanian Supreme Court, Decision No. (2058/2004) "It is understood from the texts mentioned in Article 46 of the Copyright Protection Law that they authorize the competent court of first instance to take any of the measures stipulated in Paragraph (A). This is done in a conservative manner, either to prevent the act of infringement from occurring, or to preserve evidence related to the act of infringement, and that any decision taken in this regard shall be Interim measure on

probable cause being brought. (Jordanian Supreme Court Decision No. 2058/2004 issued on October 27 2004, Adalah Publications.). The Jordanian legislature allows the court to impose precautionary seizure of the work that has been subjected to imitation and its copy, and also granting the employees of the Copyright Protection Office the status of judicial control and authorizing them to search any place where there are printing, copying, production or distribution of works and including transportation, and this is what Article (36) of the Jordanian Copyright Protection Law stipulated, this was taken by the Supreme Court in its Decision No. (1558/2006), which states: "The offense of possessing, displaying, and circulating counterfeit works for the purpose of selling, in contravention of the provisions of Article 51/1 of the Copyright Protection Law ... While the National Library employees were carrying out their official duties, a group of imitation and copied laser tapes was seized in violation of the Copyright Protection Law." (Jordanian Supreme Court Decision No. 1558/2006 issued on May 17, 2006, Qastas Publications.)

Seizure is generally defined as "placing money under the authority of the judiciary in order to prevent its owner from smuggling it, hiding it, or disposing of it." (Shushari, 2003). As for Seizure in the concept of copyright, it is a procedure that the right holder resorted to through a request submitted to the court to place the infringing work under the jurisdiction of the court to stop the ongoing assault that would prejudice the moral and financial rights of the holder of financial rights. (Canaan, 1998)

Civil Protection:

The assault and determination of liability differs according to the nature that binds the person to the right holder, as he who has a contractual relationship with the broadcasting organization, the compensation claim is in accordance with the rules of tort arising from the fault of others, and when this responsibility is fulfilled, a penalty will arise determined by law, which means restoring the situation to what it was before the attack occurred, it is the choice that the author sometimes prefers, as it leads to erasing the damage he suffered rather than keeping the damage and giving him compensation. However, in the event that it is not possible to restore the situation to its original state, the injured person shall be entitled to compensation for the material and moral damage that he suffered according to the liability rules (Al-Muhaisin, 2011).

Contractual liability:

Contractual liability is considered a penalty for breaching the contract, meaning that the damage occurred due to failure to implement the obligations agreed upon within the contract, One of the conditions for contractual liability to be concluded is the existence of a valid contract between two parties, and one of the parties did not comply with the implementation of what was stated in it. Failure to implement may be the result of intentional or negligence or from his action (that is, without

intentional or negligent), the second condition is a breach by one of the parties of its contractual obligation. With reference to the Jordanian legislator, we find Article (315) of the Jordanian Civil Code stating that: "The right must be fulfilled whenever it fulfills the conditions of legally entitlement, and if the debtor fails to fulfill it, it must be executed by compulsion for it to be executed in concrete or compensation according to the provisions of the law." Consequently, if the right holder requests execution and it is possible, the debtor has to implement it, except that here the contractual liability does not arise, but rather the concrete implementation of the obligation. But if the concrete execution is not possible, or the right holder has requested compensation and has not shown to the debtor his intention to implement in concrete, then in this case the judge will award compensation as a penalty for not implementing the obligation. Al-(Sanhoury, 2011).

And within the scope of intellectual rights if the broadcasting organization contracts with another party to grant it a legitimate copy of a work, provided that the contract includes not making the copy available to the public, or make a copy thereof except with the approval of the broadcasting organization, and this body did not abide by the terms of the agreement, this is considered a breach of the contractual obligation between them, which leads to the establishment of contractual liability, and contractual obligations take two forms (Al-Masry, 2019):

First: Commitment to achieving a goal: the obligation to achieve a goal means that the subject of the obligation is to achieve a specific result in the contract, if this result is not achieved in whole or in part, this shall be considered a breach of contract, this result may be taking an action, abstaining from it, or transferring a right. For example, if there is a commitment between the licensee to achieve a specific result that has been agreed upon with the broadcasting organization and this result has not been achieved in this case, the broadcasting organization may prove the commitment (the result was not fully or partially achieved) and through that it can prove the breach of the agreed contract.

Second: Exerting effort commitment: it means exerting effort to reach an objective, whether it is achieved or not. That is, it is a commitment to an action but its result is not guaranteed, and the person must save no effort as of a regular person to implement the contract, an example of this is for the broadcasting organization to contract with a specific party to present a work within specific quality standards and conditions, and when it was presented, this body did not make the required effort to achieve the required quality standards and conditions, which is considered a breach of the contract's obligation even if the goal is not to satisfy the public. The broadcasting organization may prove that this party did not provide the necessary care and effort in implementing its commitment, which would allow it to seek compensation for that, which is what the Jordanian legislator indicated in the civil law that the debtor bears responsibility in case of breaching the contractual obligation and his responsibility for what comes of fraud and serious error.

In order for contractual liability to arise from the debtor, harm must exist, which is the second pillar of contractual liability i.e. "every harm that afflicts a person in one

of his rights or in a legitimate interest, and it must be proven with certainty, that is to take a physical form that the court can verify without effort" (Canaan, 1998). That is, it is not assumed to exist only because the debtor has not fulfilled his contractual obligation, there are cases when the debtor does not fulfill his obligation and the creditor does not suffer any harm from that. The broadcaster may be late to the radio or television studio for the agreed-upon time. However, this delay may not cause harm to the broadcasting organization, and this delay is not sufficient to extract the damage. Rather, the broadcasting organization must prove that it suffered damage as a result of this delay.

In contractual liability, the creditor may suffer material damage to his money or body or moral damage to his feeling, dignity or social standing. Material damage as a result of breaching the contract may result in financial damage and loss that may befall the right holder, for example, if a person copies a work prepared by the broadcasting organization and sells it to the public, or re-broadcasts a program without prior permission from the organization and for a fee, which results in financial loss to the broadcasting organization and the loss of its earnings. The damage may be moral, for example, if the producer of the radio program is late, which requires compensation for that. For example, the producer of the radio or television program is late for the agreed-upon broadcast, which may damage the reputation of the broadcasting organization or its position among other bodies or parties that contract with it (Al-Masry, 2019).

The third pillar of contractual liability is the relative relationship: it is the relationship that links the error to the damage in the sense that the contractual error is the main reason for the emergence of this damage and that it is proved that the damage was the result of the unlawful act and not a foreign cause or that it was found for another reason, the burden of proving the absence of the causal relationship shall be on the debtor to deny that the existing error is not due to an act issued by him, but due to a foreign cause. Hence, if there is a contractual error and material or moral damage and the causal relationship between them is proven, then the broadcasting organization, as the right holder, has the right to resort to the judiciary to file a lawsuit demanding compensation. It should be noted that the Jordanian legislator in the Copyright Protection Law limited civil liability to the scope of tort liability without contractual liability, as we will explain later. In the event that a dispute arises due to a breach of the contracts signed with the broadcasting organization, the arbitration shall be through the general rules stipulated by the Jordanian legislator in the civil law, meaning that the applicable rules differ according to the nature of the relationship that binds the parties of the dispute.

Tort liability:

There must be three basic pillars for the establishment of tort liability, which are error, damage and causation relationship. The Jordanian legislator stipulated the availability of error, or as he called it a harmful act against others, for the

establishment of tort liability, and this is what the Jordanian Civil Law stipulated: "any damage done to another person, even by someone who is incapable of discernment, must be remedied by the party responsible for it". In other words, the legislator obliges whoever caused the damage to guarantee the damage, whether this act was committed by discerning or indiscriminate, an example of this is for a person to use the work that belongs to the broadcasting organization without its prior permission, this act constitutes an assault that must be compensated for and the aggressor is obligated to do so. Whereas the use, reproduction, or even transfer to the public or re-broadcast of the works or the program are exclusive rights granted by the legislature to broadcasting organizations. And any harmful act entailing the exercise of these rights without prior permission or any unauthorized use of works or programs is a mistake that results in harm that requires the perpetrator to pay compensation (Al-Masry, 2019).

As for the damage, it takes two forms, the first is the material damage and is a breach of an interest of financial value to the victim, it is required that this breach be realized and does not accept probability, an example on that is making one of the broadcasting organization's works available to the public before the organization makes it available, which could cause it a financial loss or when a person sells copies of the organization's works without prior permission, which incurs great financial losses or that the possibility of missing out on a certain gain in favor of the organization, which calls for compensation for this. This is what the Lyon Court of Appeal ruled: "A person caused by his mistake to miss an opportunity on another and deprived him of what he expected to achieve from gaining or avoiding a loss such as the agent's delay in submitting an appeal against the judgment or neglecting the record in announcing the appeal on time," which is a proven harm that requires compensation.

The second form is moral damage, and the damage to a person's social standing, prestige and reputation are examples of that damage, a good example on that is what happens to the broadcasting organization when it is attacked by publishing incorrect news about it in the newspapers in order to achieve certain goals and the burden of proving the moral harm is the damage that has happened to the organization.

And the third pillar shows the causal relationship. For the establishment of tort liability, the harm caused is a direct result of the error. That is, had it not been for the occurrence of this error, the damage would not have occurred in the beginning, and the assessment of the relationship between the error and the damage would be a discretionary authority from the legislator to the judge of the matter, if it is decided to be complete, tort liability shall take place and the perpetrator shall be obligated to pay compensation. The Jordanian Supreme Court has affirmed that the establishment of the elements of tort liability represented by the harmful act, the injury and the causal relationship requires compensation for the injured for the moral and material damage he suffered, as stated in Decision No. (2384/12018):

The basis for compensation for the material and moral damage suffered by the complainant claiming personal right is based on the tort liability, represented by:

Harmful act: An illegal act that is against the law, including an assault on honor and reputation, does not require bad faith, and the error is enough ... as the suspicious act represents an assault on the social standing and the reputation of the complainant by broadcasting through the Internet.

Harm: which is what hurts the injured in his feelings, emotions, dignity, honor, or any of the meanings that people are keen on and define their social values in their social environment, the plaintiff was found to have been morally harmed, as the surrounding of the complainant has watched it, making this corner available.

Causal relationship: that there is a direct relationship between the harmful act committed by the perpetrator and the harm that occurred to the injured ... which necessitates obliging the suspects to compensate the complainant for the damages caused to him to the extent that is estimated in the copyright report and the owner of the relating right. (Jordanian Supreme Court Decision No. 2284/2018, Qastas Publications.)

Compensation lawsuit:

The Jordanian legislator specified in the Copyright Protection Law through the text of Article (2) the competent court to hear the case in the court of first instance. This was confirmed by the Jordanian Supreme Court in its decision as it says, "The civil suit filed by any aggrieved party to claim compensation determined for him under the provisions of the civil law if harm results from any act committed by means of any of the publications or the audiovisual media ... the audiovisual media: Every television or radio broadcast that delivers to the public or certain groups of it signals, pictures, or sounds that are not characteristic of private correspondence ... The competent court is the court of first instance to look into crimes that have been committed by means of radio broadcasting "(Jordanian Supreme Court Decision No. 17243/2013 issued on 26/2/2014, Qustas Publications.), The burden of proof is on the broadcasting organization in its capacity as it is the plaintiff and the affected party, and it has to establish evidence of harm by an act of others, and the basic condition for accepting the compensation claim is that the work subjected to the assault is the product of his mind or contributed to its creation, that is, it has a direct relationship with the work.

Compensation methods:

The legislator aims, through its compensation report, to remove the damage suffered by one of the property rights of the right holder, and compensation may vary according to the harm existing, so if the damage is removable and would restore the situation to what it was before it occurred, it is in-kind. However, if it is

impossible to remove the damage or if the infringer is unable to remove it, the execution shall not be in-kind. (Al-Masry, 2019).

In-kind compensation:

In-kind compensation is the fulfilment of an in-kind obligation and this falls largely on contractual obligations, as it is one of the creditor's rights, and the debtor cannot change it if its implementation is possible, and at the same time it is the debtor's right, so the creditor may not refuse to fulfil the in-kind obligation and demand financial compensation.

The basis of this type of compensation is to restore the situation to what it was before the mistake that led to the occurrence of the damage. In most cases, the copyright owner or the owner of the relating right prefers this type of compensation because of its role in erasing the damage suffered by the work or program, in accordance with the rules of tort liability, for example, if the harm occurred in the form of classified ratios prepared by the broadcasting organization for another party, this party must withdraw the work subject of the assault from circulation and re-publish it again bearing the name of the broadcasting organization as the author. This was confirmed by the Supreme Court in its decision, as it stated: "The licensee shall be punished if he engages in broadcasting or re-broadcasting activities contrary to the terms of the licensing agreement ... with an obligation to compensate and remove the damage arising from this violation ... obligating the complainant to remove the damage after one month has passed from the issuance of the judgment and acquiring the final degree", based on the above, we note that there are many conditions that must be met to apply compensation in kind:

1. The possibility of compensation in kind: The Jordanian legislator stipulated that compensation in kind should not be impossible, meaning that the nature of the work and the assault that occurred against it allows the removal of the damage, as the debtor is compelled to implement it whenever this is possible, in the event that the damage cannot be repaired, the judge will resort to enforcement in exchange for compensation, which we will discuss later.
2. Warning the debtor: The legislative text was clear regarding the necessity of warning and considered it a necessary condition to compel the debtor to pay compensation in kind, provided that the implementation of the commitment is not impossible, then the warning is useless. And that the object of the obligation should not be compensation from an unlawful act, as these cases are among those in which it is not necessary to warn the debtor.

Non-kind compensation:

That there are cases in which compensation in kind is not possible and may be due to reasons related to the nature of the work or the nature of the assault that occurred against it, in this case, the judge shall resort to indirect compensation because it is not possible to repair the damage based on the work by means of compensation in

kind. For example, if the work subject of abuse has spread and spread in an uncontrollable way so that there is no point in seizing to stop or prevent the abuse, which calls on the judge to resort to the option of financial compensation. Non-kind compensation may take two forms. The first is for the judge to rule to perform a specific order related to the unlawful work that occurred on the program or the protected work, as a compensation, for example, the judge orders, as compensation, to publish the judgment that states the guilt of the defendant in the newspapers, or if the judge orders that all the equipment and devices that were used in the assault on the work be given to the plaintiff, such judgments are considered non-monetary compensation for moral damage suffered by the plaintiff.

As for the second form, it is represented by monetary compensation, which is a sum of money estimated by the judge and it is common in such tort liability claims. While the judge believes that there is no way to compensate the damage through in-kind compensation or non-monetary compensation, the judge resorts to monetary compensation. The judge has the power to determine whether the amount is an installment or an arranged revenue, this depends on the surrounding circumstances and the nature of the assault, and if the judge does not consider it necessary, he shall order the defendant to pay the compensation amount in one go.

Compensation estimation:

The compensation estimate is considered the power granted by the legislator to the competent judicial authority, which depends on several criteria to determine the amount of compensation that is commensurate with the severity of the harm, whereas, the material damage, which would cause a financial loss to the right holder or miss a gain, calls for compensation for the purpose of reparation of the damage in an amount that does not exceed or decrease it. In the case of material damage, the court can easily determine the amount of compensation because it is tangible damages, unlike moral damage that is of an intangible personal nature, which makes determining the amount of compensation difficult, which required the legislator to define several considerations that would contribute to the assessment of compensation for damages resulting from the assault, especially when the moral and financial harm are combined, we explain these considerations as follows:

1. Considerations regarding the offended work, the status of the copyright owner or the owner of the relating right, social status, nature of specialization and field, all are considerations that affect the determination of the value of monetary compensation, as it is the scientific, literary or artistic standing that gives fame to the work or program subject to the abuse. On the other hand, the severity and nature of the assault on the work have a major role in determining the value of monetary compensation. Whereas, the attack in the form of broadcasting the work - as a literary right - is not comparable to the attack on the work in the form of modification or deletion that would make the work appear distorted, thus exposing the reputation of the broadcasting organization to greater harm.

2. Considerations related to the work subject of abuse, it is natural for compensation to be assessed on the basis of the literary, artistic or scientific value of the work or program and the extent to which the aggressor benefits from exploiting this work. That is, the profit earned by the aggressor as a result of the unlawful act and the extent of the spread of counterfeit or distorted copies has a great role in determining the harm to the one who has committed the right to the loudspeaker, and therefore the compensation is estimated.

3. Considerations regarding the financial benefits that the imitator obtained from the offense of his assault, as the legal rules require in compensation, that compensation be in proportion to the damage, and therefore the judge takes into account the profit margin that the aggressor earned, as it is tantamount to losing a gain on the injured. It should be noted that the Jordanian legislator considered the compensation awarded to the author as an excellent debt over the sums attached in the case.

Criminal protection:

The Jordanian legislator, like other national legislations, was not satisfied with civil protection to protect the rights of broadcasting organizations. Rather, it criminalizes some acts that infringe on the intellectual rights of broadcasting organizations or that would affect their exercise of their moral or financial rights, and we will explain these acts that are criminalized by the law in accordance with Article 51 of the Jordanian Copyright Protection Law (Al-Masry, 2019).

Selling or renting a protected work or radio program, or offering it for circulation without prior written permission.

The legislator has incriminated the violation of the rights of the author, work, or relating rights, whether by selling or renting the work or a broadcast program protected in accordance with the provisions of this law, or offering it for circulation in any form without prior written permission from the author or the owner of the relating right. Whereas, the legislator has decided the punishment for anyone who practices any of these acts, whether the material interest is available or not, as long as the financial rights have not been assigned to him, and his license to exploit one of the rights is not considered a license to exploit any other financial right on the work.

Imitating, selling, or offering to sell, circulate a work or a radio program or rent with the knowledge of its counterfeiting.

Some believe that counterfeiting includes broadcasting the work without the author's consent, or introducing any modifications to it or transmitting it to the public, directly or indirectly. It is a simulation of the original even if it has not been circulated, that is, making copies of the creative work without any right and without leaving the original copy out of the right's owner, while others believe that the violation of the financial or moral rights of broadcasting organizations represents

the crime of counterfeiting, as counterfeiting is every assault on literary or financial property, whether it is a direct or indirect attack on the works of others.

The Jordanian legislator, as is the case in most laws dealing with copyright and related rights, did not explicitly address the definition of counterfeiting, rather, the legislator was satisfied with stating the acts that constitute this crime, including the sale, rent or display for circulation of illegal works, that is, more broadly, if the aggressor exercised any of the rights of the author or the owner of the related right without a legal basis. As with any crime dealt with by law, the material and moral element must be present, as the material element in the crime of counterfeiting is achieved when the aggressor commits acts that affect the literary or financial rights of broadcasting organizations, which is criminalized by the Jordanian Copyright Law, represented by imitating a work or a radio program, selling it, offering it for sale, circulation or rent with the knowledge of its counterfeiting.

The moral element in any crime is based on the availability of the general criminal intent, which is based on the availability of knowledge and management, this is exemplified in the crime of counterfeiting the perpetrator's knowledge of the compilation of the work and the direction of his will to the aforementioned acts, which was confirmed by the Supreme Court in its decision No. (2384/2018), which states: Reading through the aforementioned texts, the court finds that the pillars and elements of the offense attributed to the suspects consist of the following:

The physical pillar: represented by the transmission of radio or television works or programs through terrestrial or satellite transmission stations or technologies that enable the public to receive them through all technical means.

The moral pillar: “represented by the perpetrator committing the act with free and sound will that is not tainted by error or coercion, with his knowledge and will of all the elements of the act.” (Jordanian Supreme Court Decision No. 2384/2018 issued on 30/9/2018, Qustas Publications)

Exercising the rights granted to the author or the owner of the related right under this law without legal basis.

Exercising the rights granted to the author or the owner of the relating right under this law without legal basis:

1. The author's moral rights: attribution of the work, publication report, modification, deletion and addition, prevention of abuse and prevention of distortion, and this is what was stipulated in Article (8) of the Jordanian Copyright Protection Law.
2. The author's exclusive financial rights: reproduction, translation, rental, distribution and transmission of the work to the public, and this is what is stipulated in Article (9) of the Jordanian Copyright Protection Law.

3. The exclusive rights of broadcasting organizations: installing and recording programs, direct and indirect programs reproducing, re-broadcasting and transmitting to the public, and this is stipulated in Article (23) of the Jordanian Copyright Protection Law.

The Penalty for the perpetrator of any of the previous acts shall be imprisonment for a period of not less than three months and not exceeding a year, and a fine of not less than one thousand dinars and not more than six thousand dinars, or one of these two penalties.

Disruption or defect of technological measures that have been put in place for protection.

The Jordanian legislator criminalized in the text of Article (55) of the Jordanian Copyright Protection Law any act that would remove, disable or harm the technical means and methods established to protect works or programs from the aggressors' access to the broadcast, copying, displaying it to the public or re-broadcasting without written permission in advance from the broadcasting organization, as broadcasting organizations seek to ensure that the programs or works they broadcast are not prejudiced by using several methods, the most important of which is encoding the broadcast content, controlling access to the protected program or work, and collecting a financial fee to benefit from the presentation of the work or program.

CONCLUSION (RESULTS AND RECOMMENDATIONS):

Results:

1. The Jordanian legislature was more comprehensive to the previous standards for protecting the financial rights of the audiovisual work, as it did not adopt a single standard to determine the term of protection, but rather dealt with all cases in which the audio, audiovisual and similar works may appear.

2. The Jordanian legislator has dealt with all cases in which the work may appear to determine the term of protection. The Jordanian legislator granted broadcasting organization programs a protection period of twenty years.

3. The legislator excluded the works from the scope of application of protection and considered them as acts that do not constitute an assault on the work as a judicial protection for the rights of broadcasting organizations, these include preventive measures through temporary and conservative measures and civil protection aimed at imposing civil penalty on those who caused the damage, and criminal protection in the form of determining the penalty against those who committed crimes against the rights of broadcasting organizations.

RECOMMENDATIONS:

1. The Jordanian legislator recommends explicitly stipulating the legal nature of the works prepared by broadcasting organizations due to its importance in determining their ownership.

2. The researcher proposes to increase the protection period for broadcasting organizations' programs in Jordanian law.
3. The Jordanian legislator recommended increasing the scope of civil liability mentioned in the Copyright Protection Law to include contractual liability.

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LAWS, DECISIONS AND AGREEMENTS:

Article (17 / b) of the Jordanian Copyright Protection Law, which stipulates (..... b) to use the work for private personal use by making one copy of it by reproduction, recording, photocopying, translation, or musical distribution. In all of this, it is stipulated that it does not conflict with the normal exploitation of the work and does not cause unjustified harm to the legitimate interests of the right holder.

Article No. (23/3) of the Jordanian Copyright Protection Law. Article (9/20) of the UAE Copyright and Related Rights Law No. 7 of 2002; see also Article (44) of the Bahraini Copyright Protection Law No. 22 of 2006; Article (21) of the Law on

Protection of Copyright and Neighboring Rights in the State of the Sultanate of Oman No. 37 of 2000.

Article (31) states: “The period of protection for audio and audiovisual works begins on the first of January of the calendar year following their publication”.

Jordanian Copyright Protection Law No. 22 of 1992 Article (11).

Jordanian Copyright Protection Amendment Law No. 23 of 2014, which was published in the Official Gazette, No. 5289, dated 06/01/2014.

Jordanian Supreme Court Decision No. 2284/2018, Qustas Publications.

Jordanian Supreme Court Decision No. 17243/2013 issued on 26/2/2014, Qustas Publications.

Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, 1961; See also TRIPS Agreement on Trade Related Aspects of Intellectual Property Rights, 1994.