A COMPARATIVE ANALYSIS OF THE COPYRIGHT LAWS OF THE DPR KOREA AND THE RUSSIAN FEDERATION

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Abstract *Exchange and cooperation in the field of culture is of primary importance in developing the bilateral relations between states in a multi-faceted way. Such cultural exchange and cooperation presupposes circulation of copyrightable works such as films or music, which can be successful only when such works are fully protected by law. Artistic or literary works, the results of human intellectual activities, and copyrights, the exclusive rights thereto, are protected by copyright law. The comparative analysis of the copyright laws of the DPR Korea and the Russian Federation is an important requirement for promoting mutual cooperation in legal protection of copyrightable works, the results of human intellectual activities, and copyrights, the exclusive rights thereto, and a process of exchanging experience and opinions with each other in the field of legislation and enforcement of relevant laws. The paper compares and analyzes the national laws and regulations concerning the fundamental issues of the copyright laws of the DPR Korea and the Russian Federation on the basis of summarizing the history of their copyright protection systems.*

Keywords: *copyright; the Copyright Law of the DPR Korea; the Civil Code of the Russian Federation; the author's moral rights; the author's economic right; author; originator*

INTRODUCTION

Copyright protection is an important legal issue for all countries to ensure economic and cultural development. Therefore, every country enacts and enforces copyright law to suit its specific circumstances and the requirements of international treaties on copyright protection. The DPR Korea and the Russian Federation are no exception. Practically all countries, worldwide, have one or more national laws concerning copyright and related rights.[1]

The first branch law of the DPR Korea concerning copyright is the Copyright Law of the DPR Korea (hereafter referred to as the 2001 DPRK Copyright Law) adopted by decree No. 2141 of the Standing Committee of the Supreme People's Assembly on 21 March 2001. In the early 1990s, the Soviet Union ceased to exist, which led to the disappearance of the socialist market. It compelled the DPR Korea (DPRK) to newly enact several branch laws concerning intellectual property rights as part of the efforts to turn the direction of external economic relations to the capitalist market and to create a corresponding legal environment.

The laws on invention[2], trademark[3], industrial design[4], copyright, computer software protection[5] etc. were enacted from 1998 to 2003.

The 2001 DPRK Copyright Law, with six chapters and 48 articles, made clear that it is a consistent policy of the Government to protect copyright and regulated the objects of copyright, the moral and economic

[1] WIPO, *Creative Expression: An Introduction to Copyright and Related Rights for Small and Medium-sized Enterprises* 6 (WIPO publication No. 918. 2006).
[2] Adopted by decision No. 112 of the Standing Committee of the Supreme People's Assembly on May 13 1998, and amended for the last time on August 29 2023
[3] Adopted by decision No. 106 of the Standing Committee of the Supreme People's Assembly on January 14 1998, and amended for the last time on June 30 2022.
[4] Adopted by decision No. 117 of the Standing Committee of the Supreme People's Assembly on June 3 1998, and amended for the last time on February 24 2016
[5] Adopted by decision No. 3831 of the Standing Committee of the Supreme People's Assembly on June 11 2003, and repealed with the enactment of the Software Protection Law on April 30 2021.

rights of copyright owners, the procedures to be followed in copyright use, the content of rights related to copyright and the state's guidance and control over copyright.

After the enactment of the first copyright law, the DPRK established the national copyright organization to ensure its correct enforcement and signed the Berne Convention for the Protection of Literary and Artistic Works in April 2003. The 2001 DPRK Copyright Law was amended by decree No. 1532 of the Standing Committee of the Supreme People's Assembly on 1 February 2006.

The 2006 Copyright Law gave titles to all articles in form and revised Article 12 in content.

Specifically, Article 12 of the 2001 DPRK Copyright Law, which said "Documents of state administration such as decrees, decisions and directives, news broadcasts and information data shall not be deemed objects of copyright", was revised to "Documents of state administration, news broadcasts, information data etc. shall not be deemed objects of copyright unless with commercial purposes." This means that a condition of "unless with commercial purposes" was added while recognizing the content of the previous law which stipulated that documents of state administration, news broadcasts and information data shall not be deemed objects of copyright. In other words, it embraced the principle of copyright that documents of state administration, news broadcasts and information data can be objects of copyright, if they are intended for commercial purposes, and, therefore, they should obtain relevant permission, which can be assessed as a development.

The 2006 Copyright Law was amended again in November 2012 by decree No. 2803 of the Standing Committee of the Supreme People's Assembly. What was notable in the 2012 amendment was that it additionally stipulated clear declaration of the sources of works.

Article 30 of the 2012 Copyright Law mandated that the sources of works must be declared if the works such as photographs and writings which were already published are to be used in the production of new works. It was an article that was not involved in previous copyright laws.[6] The significance of the newly-added content concerning clear declaration of the sources of works lies in the fact that it helped establish a stricter system and order in use of works and, in particular, reflected the internationally common practice and procedures in writing academic papers by mandating that the sources of works must be declared clearly even though the works of others are used justly under the license of the copyright owners or for the reasons stated by law.

The copyright law was amended once again in October 2019 by decree No. 144 of the Standing Committee of the Supreme People's Assembly. The 2019 Copyright Law gave the definitions of work, reproduction, performance, public show, broadcasting, exhibition and distribution[7], and added to the copyright owner's economic rights the rights of public show [8]and transmission [9]except the previous ones of reproduction, performance and broadcasting. And it contained a new article [10] concerning the registration of copyright and related rights and listed detailed forms of infringement of copyright and related rights.

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[6] Article 30. (Clear declaration of the source of works):
"Institutions, enterprises, organizations and citizens shall declare the sources of works if they want to use the works such as photographs and writings which were already published in the production of new works.
No works can be published without declaring the sources of the works already published.
If it is impossible to declare the sources of works for any compelling reason, they shall have permission of the copyright owner or approval of institutions.

[7] Article 2

[8] Public show refers to the reproduction of a work before the public via technical equipment such as a cine-projector or a slide projector.

[9] Transmission refers to sending a work via cable or wireless communication so that an individual can receive it at any time and in any place chosen by himself/herself.

[10] Article 45. (Registration of copyright and related rights)
"The owner of copyright or related rights shall register the title, category, date of publication and change of rights of a work or a work-related thing at the institution concerned.
The institution concerned shall notify of registration of the owner of copyright or related rights via computer network or give access to the directory."

To sum up the 3 amendments from 2001, when the first copyright law was enacted, to 2019, we can see that it has been developed to meet the demand of the reality by making partial modifications while preserving the system of the 2001 DPRK Copyright Law.

The copyright law was revised on a full scale in September 2024. The Eighth Congress of the Workers' Party of Korea held in 2021 set forth the task of establishing a well-regulated guidance system over intellectual property rights on a nationwide scale. And, accordingly, the National Intellectual Property Rights Bureau was founded in August 2022 as an organ to make a unified guidance over intellectual property rights including industrial property right and copyright. The copyright law amended in 2024 against such backdrop of the times legalized the national copyright work system including mandatory administration of copyright, added new provisions concerning the point of occurrence of copyright and the presumption of the publication of works and revised the chapters and verses on a full scale. The detailed content thereof will be discussed in the following section.

On the other hand, in Russia a great deal of change has also been made to the copyright law in line with the changes in its social system and the times.

The foundation for the legislation on copyright was laid down in the Russian Federation at the beginning of the 19th century. The Censorial Statute dated 22 April 1828 provided the exclusive right for an author to print his/her works.[11] In 1830, the regulations on the rights of writers, translators and publishers were issued, followed by the enactment of the rules on musical property in 1845 and the regulations on artistic property in 1846. Later, the regulations on copyright were included in the Law of Tsarist the Russian Federation in 1897.[12]

On March 20, 1911, the Copyright law was adopted, which included detailed provisions regulating relations in the field of copyright. Several legislative acts regulating relations in the field of copyright were adopted in the first years of the Soviet regime and only on January 30, 1925 was the first legislative copyright act of the new state adopted, namely the Decree of the Central Executive Committee and the Council of the People's Commissars of the Union of Soviet Socialist Republics on the Fundamentals of Copyright. [13] On this basis, the member republics adopted their own copyright laws. In the Russian Federal Republic, it was adopted on 11 October 1926. Under the new law, the term of protection was 25 years after publication (later changed to 15 years' post mortem auctoris), and generous moral rights and basic economic rights were granted.

However, protection under this law only extended to Soviet citizens and works published in the Soviet Union. In 1973, the Soviet Union acceded to the UNESCO Universal Copyright Convention (UCC) and revised its copyright law substantially. Typically, foreign works became protected in the Soviet Union, the term of which was extended to 25 years' post mortem auctoris, and the exclusive right of translation was recognized.[14]

In 1991, new Fundamentals were adopted that increased the level of protection nearly to the international standard. In the meantime, however, the Soviet Union ceased to exist. The Fundamentals, which had been commonly applicable in all former member republics, became invalid.

Consequently, in 1993, a modern Copyright Law[15] was adopted as a separate branch law in the Russian Federation in accordance with the Berne Convention. Later, in 2006, Part IV of the Code was adopted[16], containing the regulations of copyright law, and, therefore, the 1993 Copyright Law became invalid. Later, it was revised several times in 2010, 2014, 2016 and 2023.

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[11] WIPO, *National Studies on Assessing the Economic Contribution of the Copyright-Based Industries: Creative Industries Series No.3,* 14 (WIPO Publication No.1017e, 2008).

[12]Л. А. Новоселовой, "ПРАВО ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ" Москва, 2019, p.16

[13] WIPO, *supra* note 11.

[14] Mihály Ficsor, *The Emergence and Development of Intellectual Property Law in Central and Eastern Europe: The Oxford Handbook of Intellectual Property Law* 337-338 (Oxford University Press, 2018).

[15] Law No 5351-I of 9 July 1993.

[16] By the State Duma on 24 November 2006 and by the Federal Council on 8 December 2006.

The copyright laws of the DPRK and the Russian Federation differ from each other to some extent in their historical development stages and the underlying socio-economic conditions, which constitutes a major difference between the two countries' copyright laws. However, both countries have applied the content of the Berne Convention, as its signatories, to their own legislation, which is common ground between them on copyright law.

This section of the paper compares and analyzes the copyright laws of the DPRK and the Russian Federation in aspects of the applicable national legal framework, the concept and content of copyright, the object of protection and the author (or the copyright owner).

In general, copyright is protected by national law and legal tradition in all countries.

The national legal framework of each country usually consists of the constitution at the top and branch laws adopted on the basis of it. Of course, some countries like the UK do not have a written constitution but it's very uncommon. The constitution is the basic law of a state and the basis of enactment of branch laws. It means that the basis of copyright law is the constitution and the enactment of copyright law is based on the constitution.

According to the constitutional regulations concerning copyright, countries can be largely divided into two categories.

The first one involves the countries with explicit regulations on copyright contained in the constitution, and the other one without such regulations. Bulgaria, Spain, Estonia, Croatia etc. are typical examples of the first category while Poland, Belgium, Germany, France, Italy, the Netherlands, Switzerland etc. the second one. The countries of the second category never use such terms as copyright or intellectual property right. But some of them have the regulations regarding the protection of "private property" (Belgium and Germany), "property right" (France) and "ownership" (Switzerland) which they interpret to cover intellectual property rights such as copyright, while other countries like the Netherlands never regulate any content concerning intellectual property rights in their constitutions.[17]

What is clear is that the DPRK and the Russian Federation both belong to the first category. In a word, the constitutions of the DPRK and the Russian Federation both involve clear regulations regarding copyright protection. For example, Article 74 of the Socialist Constitution of the DPRK provides, "A citizen has the freedom of scientific, literary and artistic activities. The state shall grant benefits to inventors and innovators. Copyright, invention and patent shall be protected by law."

The Russian Constitution provides, in Item 1 of Article 44, "Everyone shall be guaranteed the freedom of literary, artistic, scientific, technical and other types of creative activities and teaching. Intellectual property shall be protected by law."

In the aspect of applicable national legal framework, the DPRK and the Russian Federation have adopted the same mode of constitutional regulation but they differ in branch laws.

The difference is, in a word, that the DPRK takes the form of special law, namely the Copyright Law, while the Russian Federation general law, namely the Civil Code. The fact that the DPRK takes the form of special law, namely the Copyright Law, can be explained in connection with its legal system and its civil law. Its legal system consists of the constitution as the basic law, detailed branch laws enacted on the basis of it and regulations and rules to enforce them. Therefore, the copyright law was enacted in the form of separate branch law, i.e. special law, on the basis of the principled regulations of the Constitution on copyright protection.

On the other hand, when the first copyright law[18] was enacted the Civil Code of the DPRK mainly focused on the ownership of tangible property, and therefore no article which clearly regulated intellectual property rights was available. Since the object of intellectual property rights including copyright is intangible property, the application of Civil Code regulations in various aspects faced with certain problems in case of its infringement and restitution. As a type of property, the intellectual property is also subject to general principles of the Civil Code including accountability.

[17] EU, *Copyright Law in the EU: Salient Features of Copyright Law across the EU Member States*, (European Union, 2018).

[18] Adopted by decision No. 4 of the Standing Committee of the Supreme People's Assembly on 5 September 1990.

Since the Civil Code alone is impossible to completely solve all the problems caused by peculiar features of copyright, a separate law, namely the Copyright Law, was badly needed.

On February 6th, 2024, the DPRK amended the Civil Code with a decree No. 1552 of the Standing Committee of the Supreme People's Assembly by adding several provisions concerning the intellectual property rights. Specifically, they are Article 587 (Protection of intellectual property rights by civil law), Article 588 (Claims for compensation for a service invention), Article 589 (Claims for payment of price for patent transfer), Article 590 (Compensation for forced permission for use), Article 591 (Payment for use of works), Article 592 (Alienation of trademark rights, claims for payment of price for permission), Article 593 (Cessation of the infringement of intellectual property rights), Article 594 (Liability for compensation for damages by the infringement of intellectual property rights), Article 595 (Scope of claims for compensation for damages by the infringement of intellectual property rights) and so on.

As can be seen from the content of the articles, the regulations of the Civil Code are mostly related to civil responsibility for the infringement of intellectual property rights and the issues regarding the content, scope, period of protection and others are regulated by the Copyright Law.

The Copyright law of the DPRK amended by decree No. 1724 of the Standing Committee of the Supreme People's Assembly on 18 September 2024 consists of six chapters and 64 articles.[19]

Unlike the DPRK, the Russian Federation has taken the form of general law, namely the Civil Code, to regulate copyright. The Civil Code of the Russian Federation regulates copyright in Chapter 70 (Article 1255-Article 1302) of the Fourth Part and rights related to copyright in Chapter 71 (Article 1303-Article 1344).

In Russia, intellectual property law has long been recognized as part of civil law. As to this, some scholars even argue that it is one of the basic principles of "socialist" intellectual property law to regard it to be part of civil law.[20]

Although there was a break in the civil-code dominance of IP legislation in the Russian Federation in the early 1990s, the tradition was maintained as the intellectual property law got involved in the Russian Civil Code in 2006.

To sum up the worldwide reality of national legislation concerning copyright at present, there are the countries such as the DPRK and the PRC with copyright laws as special laws, the ones such as the Russian Federation and Belgium [21]taking the form of general laws like civil law and economic law and the others such as Vietnam [22]and France [23]that regulate copyright together with industrial property rights including patent rights in a unified legal document, namely the intellectual property law.

However, such difference can make very little impact on the details of copyright or the protection mode as it is based on the legal system or the tradition of each country.

In other words, the fact that the DPRK takes the form of special law while the Russian Federation takes the form of general law does not pose any problem for cooperation and exchange between the two countries in terms of copyright protection.

1. Comparative Analysis of Some Basic Issues of Copyright Laws of the DPR Korea and the Russian Federation

2. 1 The concept and contents of copyright

The concept of copyright and related rights is defined in each country's legislation.

[19] Chapter 1 Basics of Copyright Law (Articles 1-7), Chapter 2 Copyright (Articles 8-27), Chapter 3 Rights Related to Copyright (Articles 28-35), Chapter 4 Exercise, Registration, Limitation of Copyright and Related rights (Articles 36-50), Chapter 5 Settlement of Disputes and Legal Responsibility (Articles 51-61), and Chapter 6 Additional Rules (Articles 62-64).

[20] Mihály Ficsor, *supra* note 14 at 320.

[21] Title 5 of Book XI of the Belgian Economic Code (CEL) concerns copyright and neighboring rights ("Droit d'auteur et droits voisins" - Articles XI.164 to XI.293).

[22] Law on Intellectual Property, National Assembly of the Socialist Republic of Vietnam Legislature XI, Session 8 (From 18 October until 29 November 2005)

[23] "Code de propriété intellectuelle" (CPI)), enacted by the statute of 1 July 1992

However, the basic concepts in almost all laws are largely consistent with the provisions of the Berne Convention for the Protection of Literary and Artistic Works, the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (commonly known as the Rome Convention), the Agreement on Trade-Related Aspects of Intellectual Property Rights (commonly known as the TRIPS Agreement), and the WIPO Copyright Treaty of 1996 and the WIPO Performances and Phonograms Treaty of 1996 and some other relevant international conventions.[24]
The copyright laws of the DPRK and the Russian Federation, specifically the DPRK Copyright Law and the Russian Civil Code, also clearly define copyright. The relevant provisions are shown in Table 1 below.

Table 1

DPR Korea (Copyright Law)	Russian Federation (Civil Code)
Article 2. (Definition of terms) 2. A work is a product created by a man's intellectual activities in the fields of literature, art and science. 3. Copyrights are moral and economic rights the author has for his/her works.	Article 1255. Copyrights 1. The intellectual rights subsisting in scientific, literary and artistic works are copyrights. 2. The author of a work has the following rights: 1) an exclusive right to the work; 2) the right of attribution; 3) the right to one's own name; 4) a right to integrity of the work; 5) a right to publish the work. 3. Apart from the rights mentioned in Item 2 of the present article, in the cases envisaged by the present Code the author of the work has other rights, including the right to a fee for service work, the right of withdrawal, the resale royalty right, and the right of access to an artistic work.

As Table 1 shows, the concept and content of copyright are similar yet a little different between the two countries.
It is the common ground between the two countries' laws that copyright is the right of the author to the work created by intellectual activities in the fields of science, literature and art.
However, there are some differences in the content of copyright.
The DPRK Copyright Law regulated copyright as moral and economic rights of the author in its content, but the Russian Civil Code does not use the term "moral right".
There are two types of rights under copyright.
Economic rights allow the rights owner to derive financial reward from the use of his works by others. Therefore, they are also known as exclusive rights. Moral rights allow the author to take certain actions to preserve the personal link between himself and the work.[25]
Although the Russian Civil Code does not use the direct expression "moral right", among the content of rights regulated in Item 2 of Article 1255, the remaining ones except economic rights regulated in Subitem 1 refer to moral rights.
The paper intends to analyze in detail the copyright laws of the DPRK and the Russian Federation in terms of moral and economic rights, the content of copyright.

[24] WIPO, *Guide on Surveying the Economic Contribution of the Copyright-Based Industries* 13 (WIPO Publication, 2002).
[25] WIPO, *Understanding Copyright and Related Rights* 7 (WIPO Publication No. 909(E), 2006).

2.1.1 Moral right

The Berne Convention (Article 6bis) requires Member countries to grant to authors:
(i) the right to claim authorship of the work, (sometimes called the right of paternity); and
(ii) the right to object to any distortion or modification of the work, or other derogatory action in relation to the work, which would be prejudicial to the author's honor or reputation, (sometimes called the right of integrity).[26]
Like this, the Berne Convention indicates typical kinds of the author's moral rights, but it does not mean that all countries must only protect them.
All countries can regulate other forms of moral rights by national law to meet their actual conditions.
In this regard, the DPRK Copyright Law stipulates in Article 20 (The Author's Moral Rights).
Article 20 indicates the right to decide whether to publish the work or not (a right to publish the work), the right to decide whether to reveal one's name on the work or not (the right to one's own name) and the right to forbid any act of modifying or deleting the title, content, style etc. of the work (a right to integrity of the work) as the categories of moral rights.
The Russian Civil Code regulates the right to attribution, the right to one's own name, the right to integrity of the work, the right to publish the work and the right of withdrawal as moral rights.
Among them, the right to attribution and the right to one's own name are quite similar in content, which is why the Russian Civil Code regulates them together as one in Article 1265.
After all, the right of withdrawal is the only difference in the content of moral rights between the two countries' laws.
It is attributable to the fact that the DPRK has not regulated the right separately as there is no concern that the problem of the right of withdrawal might arise in practice.
On the other hand, unlike economic rights, moral rights cannot be transferred to someone else and they are perpetual.
As to this, the laws of the DPRK and the Russian Federation regulate identically.
According to the DPRK Copyright Law, moral rights belong to the author alone, unable to be transferred to a third party[27], and the period of its protection is indefinite.[28]
The Russian Civil Code does not use the expression "moral rights" but gives separate provisions in accordance with specific categories which regulate the impossibility of transferring moral rights or the indefinite period of protection in the articles concerned.
For example, Item 1 of Article 1265 of the Russian Civil Code stipulates that the right of attribution and the right to one's own name involved in moral rights are unalienable or unassignable even though the exclusive right to the work is transferred to another person, and Item 1 of Article 1267 stipulates that the right of attribution, the right to one's own name and the right to integrity of the work shall be protected indefinitely.
Besides, an author who has transferred a work to another person for use shall be deemed to have agreed to the promulgation of the work, which is common in the laws of the DPRK[29] and the Russian Federation[30].

2.1.2 Economic right or Exclusive right

Economic rights constitute the main content of copyright together with moral rights.
Economic rights give the owner/holder of copyright the exclusive right to authorize or prohibit certain uses of a work. "Exclusive" means no one may exercise these rights without a copyright owner's prior permission.[31]

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[26] WIPO, *Understanding Copyright and Related Rights* 10 (WIPO Publication No. 909(E), 2006).
[27] Article 20. (The author's moral rights)
[28] Article 23. (Period of protection of moral rights)
[29] Article 19. (Recognition of the promulgation of a work)
[30] Item 2 Article 1268
[31] WIPO, *Creative Expression: An Introduction to Copyright and Related Rights for Small and Medium-sized Enterprises* 14 (WIPO publication No. 918. 2006).

As to economic rights, too, similar and different provisions can be noticed in the laws of the DPRK and the Russian Federation.

The summarized content of the relevant DPRK and Russian regulations concerning detailed categories of economic rights is as follows.

Table 2

DPR Korea (Copyright Law)	Russian Federation (Civil Code)
Article 21. (Economic rights of the copyright owner) The economic rights of the copyright owner shall include: 1. the right of reproduction 2. the right of public performance 3. the right of public show 4. the right of distribution 5. the right of adaptation (including translation) 6. the right of lending 7. the right of exhibition 8. the right of broadcasting 9. the right of transmission	Article 1270. The Exclusive Right to a Work 2. Irrespective of relevant actions being or not being committed for the purpose of making a profit or without such purpose, the use of a work means the following: 1) the reproduction of the work 2) the distribution of the work 3) the public show of the work, 4) the import of the original or copies of the work for the purpose of distribution; 5) the hiring out of the original or a copy of the work; 6) the public performance of the work, 7) the radio or television broadcasting, 8) cable communication, 8.1) rebroadcasting, 9) the translation or other processing of the work 10) the practical implementation of an architectural, design, town planning or landscaping project; 11) bringing the work to the notice of the public

As Table 2 shows, the laws of the two countries are almost identical in the content of economic rights. The difference is that the import of the original or copies of the work for the purpose of distribution and the practical implementation of architectural, design, town planning or landscaping project are regulated only in the Russian Civil Code, not in the DPRK Copyright Law.

The import of the original or copies of the work for the purpose of distribution was not included in the content of economic rights in the DPRK. It is because the import itself does not influence directly the rights of the copyright owner. But once the original or copies of the imported work are distributed, it constitutes an act of infringing upon the economic rights, i.e., the right of distribution, of the copyright owner.

For this reason, the content concerning the import of the original or copies of the work for the purpose of distribution has not been included in the economic rights of the copyright owner but in legally prohibited acts, being regarded as a preparatory stage of infringement of the right of distribution.[32]

Besides, in the DPRK Copyright Law, architecture, design, town planning etc. are recognized protected as architectural works, artistic works and graphic works. For example, architectural works are the creative characters or creative expressions of the buildings themselves and the designs or drawings that precede the building of the relevant structures are recognized as artistic works or graphic works. Therefore, they have not been regulated separately as the economic rights of the copyright owner can be protected only by the right of reproduction if architecture, design, town planning etc. are practically implemented.

2.2 Author

[32] Article 56. (Prohibition of infringement of copyright and related rights)
15. Act of importing things recognized as having infringed upon copyright and related rights for the purpose of distribution in the country

Generally, copyright in a work initially belongs to the person who actually created it, that is to say, the author.[33]

The Berne Convention gives member countries broad flexibility in determining who is considered an author (and therefore the original copyright holder) of a literary or artistic work. Article 15(1) of the Convention provides:

"In order that the author of a literary or artistic work protected by this Convention shall, in the absence of proof to the contrary, be regarded as such, and consequently be entitled to institute infringement proceedings in the countries of the Union, it shall be sufficient for his name to appear on the work in the usual manner. This paragraph shall be applicable even if this name is a pseudonym, where the pseudonym adopted by the author leaves no doubt as to his identity."[34]

The DPRK Copyright Law and the Russian Civil Code have employed the general principles provided by the Berne Convention in connection with the recognition of the author (or the copyright owner).

It is as follows.

Table 3

DPR Korea (Copyright Law)	Russian Federation (Civil Code)
Article 13. (Ownership of Copyright) Copyright belongs to the person who actually created the work and the person to whom his/her rights have been permitted and alienated. **Article 14. (Conditions for Becoming the Author and the Copyright Owner)** The person whose name or title is cited on the original or reproduced copies of the published work shall be deemed the author or the copyright owner of the work, unless otherwise proven.	**Article 1257. The Author of a Work** The author of a scientific, literary or artistic work is the citizen by whose creative work it has been created. The person cited as an author on the original or a copy of a work or in some other way in compliance with Item 1 of Article 1300 shall be deemed its author, unless otherwise proven.

As shown in Table 3, copyright, in principle, belongs to the person who created the work in the DPRK and the Russian Federation. And the person, whose name is cited on the original or reproduced copies of the published work, is deemed the creator, i.e., the author or the copyright owner.

In a word, the two countries commonly accept the principle of creators, the principle of natural persons and the principle of non-formality (which does not need administrative registration) as to the recognition of the author (or the copyright owner).

However, in relation to the principle of the recognition of the author (or the copyright owner), the laws of all countries regulate exceptional cases.

Specifically, they are the work created by several persons, the work created by an employee as a part of his/her job and the work commissioned or specially ordered.

The national laws of the DPRK and the Russian Federation also regulate these works as exceptions to the general principle of recognizing the author.

First of all, they regulate joint/collective works.

Joint authorship exists when two or more persons create a copyrighted work.[35]

The regulations of the two countries regarding the recognition of the author (or the copyright owner) of a joint/collective work are as follows.

[33] WIPO, *Creative Expression: An Introduction to Copyright and Related Rights for Small and Medium-sized Enterprises* 31 (WIPO publication No. 918. 2006).

[34] Berkman Center for Internet and Society *Copyright for Librarians: the Essential Handbook* 38 (Harvard University, 2012).

[35] Berkman Center for Internet and Society *Copyright for Librarians: the Essential Handbook* 38 (Harvard University, 2012).

Table 4

DPR Korea (Copyright Law)	Russian Federation (Civil Code)
Article 16. (Copyright Owner in Joint Authorship) Copyright of the work created by more than two persons shall be commonly held by all co-authors if their contributions cannot be divided, and, otherwise, shall be owned independently for their own contributions.	**Article 1258. Co-Authorship** 1. Citizens who have created a work by their joint creative work shall be deemed co-authors irrespective of this work's being an integral entity or being composed of parts each having an independent significance 2. A work created through co-authorship shall be used by the co-authors jointly, except as otherwise envisaged by agreement between them. If the work is an integral entity, neither of the co-authors is entitled to ban the use of the work without a sufficiently good reason. A work's part that can be used independently of other parts, i.e., a part having independent significance, may be used by its author at his own discretion, except as otherwise envisaged by agreement among the co-authors. 3. The co-authors' relationships relating to the distribution of incomes from the use of the work and to the disposition of the exclusive right to the work are subject to the rules of Item 3 of Article 1229 of the present Code respectively. 4. Each of the co-authors is entitled to take measures on his own to protect his rights, in particular, when the work created by the co-authors makes up an integral entity.

What is common between the regulations of the two countries concerning joint/collective works is that the exercise of copyright varies according to whether the contributions of individual authors can be divided or not.

A basic requirement of co-authorship is that each co-author's contribution must itself be copyrightable subject matter.[36]

But there are differences in the practical way of exercising the copyright, depending on whether the individual authors' contributions can be divided or not. It means that, in case of a joint work with inseparable contributions, copyright can only be exercised under the joint name of all authors, and, in case of a collective work with separable contributions, each author can exercise copyright only for his/her contribution.

Both countries have relevant regulations on this matter.

The difference, if any, is that the Russian Civil Code regards prior agreement of the parties concerned as a prerequisite for exercising copyright of joint/collective works. That's why there is provided a condition "unless otherwise agreed" by the co-authors.

In contrast, the DPRK's Copyright Law does not envisage the agreement of co-authors. The method of exercising copyright of joint/collective works has been regulated legally, not at individual authors' discretion. Probably it is aimed at making clear the procedures of uses of joint/collective works and reduce the possibility of the outbreak of disputes.

[36] WIPO, *Creative Expression: An Introduction to Copyright and Related Rights for Small and Medium-sized Enterprises* 33 (WIPO publication No. 918. 2006).

Such common ground and differences between the laws and regulations of the DPRK and the Russian Federation concerning the exercise of copyright of joint/collective works can be found in the article related to audiovisual works, its typical form.

Article 18. (Copyright Owner of Audiovisual Works) provides that copyright of the audiovisual work shall be held by institutions, enterprises and organizations that planned its creation and made a material and financial investment in it and the persons involved in the production, such as directors, cameramen, actors and actresses shall be deemed the authors. Accordingly, the directors, cameramen, actors and actresses etc. shall only exercise moral rights as the authors and economic rights on the audiovisual work shall be exercised by the manufacturer on their behalf. Directors, cameramen, actors etc. shall receive their shares of profit from the use of their work for their individual contributions.

Article 1263 of the Russian Civil Code (Audio-visual Work) also stipulates that the director, author of the script, composer etc. are the authors and that the manufacturer shall hold the exclusive right to the work on the whole, unless otherwise results from the contracts made by him/her with the authors.

Next, they also deal with service works.

Employees are often hired to create literary or artistic works for their employer.

In this case, a question arises as to whether copyright shall be granted to the author (employee) or to the institution (employer) he/she is employed by. In this regard, countries differ in regulation.

In some countries like France, for instance, copyright is not granted to the employer but to the employee while, in other countries like Germany, it is granted to the employee but then automatically transferred to the employer. And, in countries like Canada and the UK, copyright is given to the employer.[37]

The DPRK Copyright Law and the Russian Civil Code also have articles on copyright of service works, which is compared in Table 5 below.

Table 5

DPR Korea (Copyright Law)	Russian Federation (Civil Code)
Article 15. (Copyright Owner of a Service Work) If a member of an institute, enterprise or organization created a work in the course of performing his/her duties, the copyright of it shall be held by the institution, enterprise and organization concerned. Article 50. (Compensation to the Author) The copyright owner making profit from the use of a service work shall pay the author a fixed share.	Article 1295. Service Work 1. Copyrights to a scientific, literary or artistic work created within the job description limits established for an employee (author) (a service work) are owned by the author. 2. The employer has an exclusive right to a service work, unless otherwise envisaged by the labour contract or civil law contract between the employer and the author. 3. If according to Item 2 of this article the exclusive right to service work is owned by the author, the employer is entitled to use the corresponding service work under the terms of an ordinary (non-exclusive) licensee with a fee to the right holder to be paid. 4. An employer may promulgate a service work if the agreement made by him and the author does not stipulate otherwise, as well as to cite when using the service work the name or denomination thereof or to demand it to be cited.

As Table 5 indicates, the Russian law ensures that copyright of a service work shall be primarily granted to the author and the employer shall hold the economic right under the contract of employment between the author and the employer or civil law contract. Considering the fact that the relevant provisions stipulated that the employer shall own the copyright unless otherwise envisaged by the contract between

[37] Berkman Center for Internet and Society *Copyright for Librarians: the Essential Handbook* 40-41 (Harvard University, 2012).

the employer and the author, it is clear that the economic rights of a service work are widely encouraged to be granted to the employer, not to the author, in Russia.

In the DPRK, the copyright of a service work is not held by the author, but the institution, enterprise or organization he/she belongs to.

If there is anything different from Russia, it is that it cannot be changed by means of making a contract between the author and the institution he/she belongs to (or employer).

In the DPRK, whose economic foundation is the socialist ownership of the means of production, the relationship between employees and institutions, enterprises or organizations they belong to is neither the one of employment nor a contractual one. Therefore, the DPRK Copyright Law grants the copyright of a service work to the institution, enterprise or organization the author belongs to and stipulates that the author shall be paid a fixed share of the profit from the use of the service work.

Of course, even in this case, the moral right of the service work, especially the right to one's own name, is held by the author. In other words, the name of the author, not of the institute, enterprise or organization, is cited on the service work.

Next, they also regulate commissioned works.

Countries also adopt different methods as to whether the copyright of the work created under a consignment contract should be owned by the creator or the consignor.

In most countries, the creator owns the copyright in the commissioned work, and the person who ordered the work will only have a license to use the work for the purposes for which it was commissioned. But in some countries, the copyright owner is the entity that pays for it, not the person who creates it.[38]

A comparison of the relevant regulations of the DPRK and the Russian Federation concerning copyright of commissioned works shows that they are almost the same in a broad meaning.

Table 6

DPR Korea (Copyright Law)	Russian Federation (Civil Code)
Article 17. (Copyright Owner of a Commissioned Work) The ownership of copyright of a work created by commission shall be decided according to the contract.	Article 1296. Computer Programs and Databases Created by Order 1. The exclusive right to a computer program, database or other work created under a contract having the creation thereof as its subject matter (by order), shall be held by the client, unless otherwise envisaged by the contract between the contractor (performer) and the client. 2. If according to Item 1 of this article the exclusive right to a work is owned by the client, the contractor (performer) is entitled, insofar as not otherwise envisaged by a contract, to use such work for his own needs under the terms of a gratuitous ordinary (non-exclusive) license within the whole effective term of the exclusive right. 3. If according to a contract concluded between a contractor (performer) and a client the exclusive right to a work is owned by the contractor (performer), the client is entitled to use such work for the own needs thereof on the terms of a gratuitous ordinary (non-exclusive) licence within the whole effective term of the exclusive right.

As the above table shows, both countries ensure that the consignment contracts shall be honored with regard to copyright of commissioned works.

[38] WIPO, *Creative Expression: An Introduction to Copyright and Related Rights for Small and Medium-sized Enterprises* 32 (WIPO publication No. 918. 2006).

The difference, if any, is that the Russian Federation favors conferring copyright to the client rather than the contractor (performer). It is because as we can see in the provision, it acknowledges that the copyright is held by the client, unless otherwise envisaged in the contract.

But the DPRK Copyright Law allows the persons concerned to settle issues under contracts without regulating such conditions.

And it also entirely authorizes them to agree on the content regarding the use of the work in the contract whether the copyright is granted to the contractor or the client in accordance with the contract.

The Russian Civil Code regulates relatively in detail in this respect, but, eventually, it ensures that the persons concerned shall settle the issues related to the ownership of the copyright or the use of the work under the contract.

2.3 Subject matter of copyright

Article 2 of the Berne Convention on the Protected Works of Art and Literature lists with examples the categories of works protected by copyright laws. The list, however, is not intended to be exhaustive. Many countries stipulate in detail the categories of the works which are protected and cannot be protected under their national laws concerning copyright on the basis of (or with reference to) the Berne Convention.

The DPRK and the Russian Federation also regulate in detail the protected works and the excluded ones from protection as the objects of copyright.

First, the DPRK Copyright Law and the Russian Civil Code regulate with regard to the protected works almost identically.

Table 7

DPR Korea (Copyright Law)	Russian Federation (Civil Code)
Article 8. (Categories of works) The following are the categories of works: 1. Literary works like novels, poems and scientific papers 2. Musical works 3. Operas, dramas, acrobatics, dance and other works of theatrical arts 4. Audiovisual works composed of sounds, titles, continuous screens, and others like films and broadcasts 5. Artistic works such as paintings, sculptures, craftsmanship, calligraphy and designs 6. Photographic works 7. Graphic works like maps, charts, drawings, sketches, and models 8. Architectural works 9. Software works 10. Other intellectual products to be recognized as works Article 9. (Derivative works) Article 10. (Composite works)	Article 1259. The Objects of Copyrights 1. The objects of copyright are scientific, literary and artistic works, irrespective of the merit and significance of the work or the method whereby it is expressed: literary works; dramatic and dramatic-musical works, script works; choreographic works and mime shows; musical works with or without a text; audio-visual works; painting, sculpture, graphic, design, graphic stories, comics and other works of art; artistic craftsmanship and scenographic works; works of architecture, city planning and landscaping, including designs, drawings, images and models; photographic works and works produced by methods similar to photography; geographic maps and other maps, layouts, sketches and plastic works that have to do with geography and other sciences; other works. Also computer programs protected as literary works are deemed objects of copyright. 2. The following shall be deemed objects of copyright: 1) derivative works, i.e., works being a remake of other works;

	2) composite works, i.e., works being the result of a creative work in terms of selection or arrangement of materials.

The table shows that the categories of the works protected by copyright are almost the same with only a slight difference in expressions.

In particular, the laws of both countries have permissive provisions “other works”. Accordingly, any work created by human intellectual activities in the fields of literature, art and science can be protected by copyright in the two countries.

And their regulations of the objects which cannot be protected by copyright are also almost similar, with only a slight difference between them.

The details are listed Table 8 below.

Table 8

DPR Korea (Copyright Law)	Russian Federation (Civil Code)
Article 12. (Objects which cannot be Protected by Copyright) The following shall not be protected by copyright: 1. Laws, orders, decrees, decisions and directives of state organs 2. Documents of procedures that are made public or published to the society for the purpose of administrative management 3. News broadcasts or information data simply intended for delivery of facts 4. Mathematical, scientific and technological concepts, theories, doctrines and formulas 5. Physical skills	Article 1259. Objective of copyright 6. The following are not objects of copyright: 1) the official documents of state bodies and local government bodies of municipal formations, including laws, other normative acts, court decisions, other materials of a legislative, administrative and judicial nature, the official documents of international organizations, and also the official translations thereof; 2) state symbols and signs (flags, coats-of-arms, orders, banknotes and coins, etc.) and also the symbols and signs of municipal formations; 3) popular creative works (folklore) having no specific authors; 4) announcements about events and facts that have an exclusively informative nature (news-of-the-day announcements, television program timetables, transport timetables, etc.).

As the table shows, the legislation of the DPRK and the Russian Federation have some differences in the regulation of exclusive objects from copyright.

The symbols and signs of the state and municipal formations and folk traditional works without any specific author stipulated in the Russian Civil Code are not found in the DPRK Copyright Law, whereas the mathematical, scientific and technological concepts, theories, doctrines and formulas and physical skills stipulated in the DPRK Copyright Law are not regulated in the Russian Civil Code.

As for the symbols and signs of the state and municipal formations, they are not the objects under protection of copyright in the DPRK either. There are several reasons to explain it, but, in short, state symbols such as the national flag or the national emblem can be involved in statutes of state organs indicated in Item 1 of Article 12 of the Copyright Law. In other words, the national flag or national emblem is decided by ordinance of state organs, specifically according to the constitution adopted by the Supreme People’s Assembly, and, therefore, they naturally become the objects excluded from copyright.

It seems that the Russian Civil Code regulates the symbols and signs of the state and municipal formations as objects of exclusion from copyright because, as it regulates the author's rights concerning the draft of relevant symbols and signs in Article 1264, it seeks to make clearer the connection with it.

As for folk traditional works, Article 37 of the DPRK Copyright Law provides that the central copyright governing body shall exercise the copyright on national traditional cultural works externally and that institutions, enterprises, organizations or citizens who intend to use them in the creation of new works in the country shall correctly declare their sources and preserve and inherit their true value.

This is aimed mainly at preserving and inheriting the true value of the excellent traditional works of the Korean folk customs at home and abroad and preventing them from being damaged or distorted. For example, even though the author is unknown, the central intellectual property authority can exercise moral rights to prohibit the user from revising or distorting the works at will.

On the other hand, the mathematical, scientific and technological concepts, theories, doctrines and formulas or physical skills stipulated in the DPRK Copyright Law are, in essence, not works as objects under protection of copyright. Therefore, it seems that the Russian Civil Code separately deals with the objects on which copyright is not exercised, such as ideas, concepts and principles in Item 5 of Article 1269 and does not even refer to physical skills themselves as they are not the creation of intellectual activities.

This may be the result of difference in intentions of the lawmakers. In other words, the DPRK Copyright Law comprehensively regulates the objects which cannot be protected by copyright without discussing as to whether it has the nature of a work or not, while the Russian Civil Code regulates the objects to be excluded from copyright in connection with the nature of a work.

CONCLUSION

As cited above, the copyright laws of the DPRK and the Russian Federation have many things in common with each other as they are all based on the Berne Convention.

However, they also differ from each other in many aspects due to the differences in their social systems, legislative traditions and so on.

In addition to the items mentioned in the paper, there are several other differences in the aspects of the period of protection of copyright, the overtaking rights to artistic works, the protection of copyright concerning computer programs or databases and so on.

But it is the final conclusion of this paper that the copyright laws of the DPRK and the Russian Federation have more things in common than differences in fundamental principles of copyright, the moral and economic rights as the content of copyright and the recognition of a work, an author or a copyright owner under protection.

This common ground shall provide a favorable legal environment for promoting economic cooperation in keeping with the strategic partnership between the DPRK and the Russian Federation.

Several differences seen in the copyright laws of the two countries never have any decisive effect on protection of the results of intellectual activities and the exclusive rights to them, and we hope that such disparities shall also be reduced to a certain extent while exchanging the opinions and experience regarding the enactment and application of laws in the future.

REFERENCES

[1] EU, *Copyright Law in the EU: Salient Features of Copyright Law across the EU Member States*, (European Union, 2018).

[2] Berkman Center for Internet and Society *Copyright for Librarians: the Essential Handbook* (Harvard University, 2012).

[3] Mihály Ficsor, *The Emergence and Development of Intellectual Property Law in Central and Eastern Europe: The Oxford Handbook of Intellectual Property Law* (Oxford University Press, 2018).

[4] WIPO, *Understanding Copyright and Related Rights* (WIPO Publication No. 909(E), 2006).

[5] WIPO, *Creative Expression: An Introduction to Copyright and Related Rights for Small and Medium-sized Enterprises* (WIPO publication No. 918. 2006).

[6] WIPO, *National Studies on Assessing the Economic Contribution of the Copyright-Based Industries: Creative Industries Series No.3* (WIPO Publication No.1017e, 2008).

[7] WIPO, *Guide on Surveying the Economic Contribution of the Copyright-Based Industries* (WIPO Publication, 2002).

[8] Л. А. Новоселовой, *ПРАВО ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ* (Москва, 2019).