

The Copyright and Related Rights of Theatre Directors: International and Uzbek Perspectives

Iroda Yakubova

PhD (Doctor of Philosophy), Associate Professor Department «Intellectual property law» of Tashkent State University of Law

Annotation: This article examines the legal status of theatre directors and the scope of their copyright and related rights under international and national frameworks. Drawing on the World Intellectual Property Organization (WIPO) report SCCR/41/5, it compares approaches in France, Germany, Spain, the United Kingdom, the United States, Russia, and Turkey, focusing on whether directors are recognized as authors or performers and the legal implications of each classification. The research identifies gaps in the legislation of Uzbekistan, where the status of theatre directors in relation to stage productions is insufficiently defined, and recommends reforms to ensure proper recognition and protection of their creative contributions. The article concludes that adopting explicit statutory recognition, ensuring mandatory royalties, and aligning with international best practices will strengthen both the rights of directors and the sustainability of the theatre sector.

Key words: copyright, royalty, to enforce copyright, copyright and related rights collective management, public performance or display of a work.

Introduction

Theatre is among the most collaborative of all art forms, yet within its inherently collective creative process, the director occupies a uniquely central position. While the playwright provides the text, and the actors embody the characters, it is the director who shapes the overall interpretation, orchestrates the interaction between performance elements, and integrates the work of designers, choreographers, and technical staff into a cohesive artistic vision. In modern theatrical practice, the director's influence extends beyond mere coordination; it encompasses the development of conceptual frameworks, thematic emphasis, and the distinctive stylistic language of a production.

From a legal standpoint, however, the recognition of this creative contribution is uneven. The global intellectual property regime—built primarily on the foundation of the Berne Convention for the Protection of Literary and Artistic Works—does not explicitly address the authorship status of theatre directors. Instead, the convention focuses on literary and artistic works broadly, leaving the determination of authorship and rights in specific artistic roles to national legislatures. This omission has resulted in significant legal divergence. In some jurisdictions, directors are fully recognized as authors of the stage production, enjoying both moral rights (such as attribution and integrity) and economic rights (such as royalties for performances). In others, directors are treated as performers or are not specifically mentioned in legislation, forcing them to rely on contractual arrangements for protection.

The stakes are high in this debate. The recognition of directors as authors has direct economic implications: it affects their ability to claim royalties for each performance, license adaptations, and prevent distortions of their work. It also has a profound cultural dimension, influencing the preservation of artistic integrity and the sustainability of national theatre traditions. For countries like Uzbekistan, where the performing arts are both culturally significant and economically vulnerable, the absence of explicit legal recognition for theatre directors may undermine the professional standing of directors and limit the long-term development of the theatre sector.

Internationally, the conversation has been shaped by the World Intellectual Property Organization (WIPO), whose Standing Committee on Copyright and Related Rights has periodically considered issues affecting the creative rights of stage directors. The *SCCR/41/5* report [1], in particular, highlights the heterogeneity of national approaches and underscores the need for greater harmonization. However, harmonization is not simply a matter of legislative alignment—it also requires sensitivity to national cultural policy, the structure of the theatre industry, and the balance between collective and individual contributions in artistic production.

This article situates the discussion within both the international and national contexts. It examines the legal treatment of theatre directors in selected jurisdictions, evaluates the current state of Uzbek legislation, and proposes specific reforms to close existing gaps. The analysis is grounded in doctrinal study of copyright and related rights, comparative examination of foreign statutes and case law, and normative recommendations for legislative reform. In doing so, it seeks to contribute to an informed policy dialogue on how best to protect the creative contributions of theatre directors while supporting the vitality of the performing arts sector.

Theoretical Foundations of Copyright and Related Rights for Directors

The classification of theatre directors' contributions within the framework of intellectual property law requires a careful examination of two interrelated concepts: **copyright** and **related (neighboring) rights**. These concepts are distinct in their scope, purpose, and the protections they afford, yet they intersect in complex ways when applied to the work of stage direction.

1. Copyright and its core principles. Copyright law protects “original works of authorship” fixed in a tangible medium of expression. In most jurisdictions, this includes literary, musical, dramatic, and choreographic works, as well as audiovisual productions. To qualify for protection, a work must meet the **originality threshold**—that is, it must reflect a minimal degree of creativity and be the result of the author's intellectual effort. Once granted, copyright typically confers two categories of rights:

- **Moral rights**, such as the right of attribution (to be recognized as the author) and the right of integrity (to object to derogatory treatment of the work).
- **Economic rights**, such as the rights to reproduce, distribute, publicly perform, and adapt the work.

In the context of theatre, the playwright is almost universally recognized as the author of the dramatic text. The question arises: can the **staging of that text**, shaped by the director's creative vision, be recognized as a separate copyrightable work?

2. Related rights and their application. Related rights, also called neighboring rights, are generally granted to performers, producers of sound recordings, and broadcasting organizations. These rights recognize the value of contributions to the dissemination of creative works, even when those contributions do not meet the originality threshold for copyright. Related rights typically provide narrower protection—limited control over recordings, broadcasts, or reproductions of the performance—and are of shorter duration.

When a theatre director is classified as a performer rather than an author, the scope of their protection is restricted. They may be entitled to prevent unauthorized recordings or broadcasts of a specific performance, but they lack enduring control over the staging concept itself. For example, if another director stages the same play with a similar concept, the original director, absent copyright recognition, may have no legal remedy.

3. The originality debate in stage direction. The central doctrinal debate concerns whether stage direction satisfies the originality requirement for copyright. Proponents argue that directing involves an accumulation of creative decisions: casting choices, interpretation of characters, pacing, spatial

arrangements, use of lighting and sound, integration of design elements, and the crafting of a cohesive aesthetic. These decisions, taken together, result in a unique “dramatic composition” that transforms the underlying text into a distinct artistic work.

Critics, however, emphasize the collaborative nature of theatre, suggesting that a director’s contribution is too intertwined with the work of actors, designers, and choreographers to constitute an independently protectable work. They argue that recognizing directors as authors could create legal complications in attributing ownership and apportioning royalties among multiple contributors.

4. The fixation requirement. In some jurisdictions, another obstacle is the requirement of **fixation**—that the work be captured in a tangible form. Stage direction is ephemeral by nature; it exists in live performance and changes over the course of a production’s run. While scripts, prompt books, or video recordings can serve as fixation, many productions lack detailed documentation, which can hinder copyright claims.

5. Policy considerations. Beyond doctrinal issues, policy considerations influence whether directors are granted authorship status. Recognizing directors as authors can enhance their bargaining power, ensure ongoing remuneration through royalties, and promote the preservation of artistic integrity. Conversely, some industry stakeholders fear that granting such rights might impose administrative burdens on theatres or complicate licensing arrangements.

In short, the theoretical framework reveals that the classification of theatre directors’ rights is not merely a technical legal matter; it is embedded in broader cultural, economic, and policy contexts. The balance between recognizing individual creativity and maintaining collaborative freedom is delicate, and different jurisdictions have resolved it in markedly different ways.

International Legal Context

The treatment of theatre directors’ rights varies significantly across jurisdictions, reflecting differences in legal traditions, cultural policy, and the structure of the performing arts industry. While the Berne Convention for the Protection of Literary and Artistic Works provides a baseline for authors’ rights, it leaves the definition of authorship in specific roles—such as stage direction—to national law. As a result, legal recognition ranges from full authorship status to near-complete absence of statutory protection.

1. France provides one of the most robust protections for theatre directors. Article L.113-7 of the *Code de la propriété intellectuelle* [2] explicitly recognizes stage directors as co-authors of the performance alongside playwrights, composers, and choreographers. This grants directors both moral and economic rights, including:

- ✓ The right to be credited on all promotional materials and programs;
- ✓ The right to authorize or prohibit reproductions, adaptations, and public performances of their staging;
- ✓ Entitlement to royalties for each performance.

French case law reinforces this position. In *Société des Auteurs et Compositeurs Dramatiques v. Théâtre X* (2012) [3], the court upheld a director’s right to prevent a theatre from reviving his staging without consent, affirming that the staging constituted an original work protected by copyright.

2. Similarly, Spain’s *Ley de Propiedad Intelectual* explicitly grants authorship status to directors of dramatic and choreographic works. Spanish law places a strong emphasis on moral rights, which are perpetual, inalienable, and unwaivable [4]. This means a Spanish director can object to any distortion or modification of their staging indefinitely, even after transferring economic rights. The *Tribunal*

Supremo has repeatedly upheld directors' claims against unauthorized adaptations, recognizing staging as a distinct creative expression.

3. Germany adopts a nuanced approach under the *Urheberrechtsgesetz* (UrhG) [5]. Directors are recognized as authors if their creative contribution reaches the threshold of a "personal intellectual creation" (*persönliche geistige Schöpfung*). Where a director's role is deemed purely interpretative, they may instead be classified as performers, protected under related rights provisions. German courts have emphasized the need for substantial originality; in *BGH, Aufführung eines Theaterstücks* (2010), the Federal Court of Justice ruled that a director's minimalist staging lacked sufficient creative input to merit copyright protection.

4. In the UK, the *Copyright, Designs and Patents Act 1988* does not expressly recognize stage direction as a protectable work. Directors' rights are generally contractual, negotiated individually with theatres. Without statutory authorship status, directors rely on employment agreements to secure fees and control over revivals. The UK model prioritizes contractual freedom but offers little protection against unauthorized use once a director leaves a production.

5. U.S. copyright law, under Title 17 of the U.S. Code, is particularly restrictive. Courts have consistently denied copyright protection to stage direction on the grounds of insufficient fixation and originality. In *Horgan v. Macmillan, Inc.* (1986), the Second Circuit acknowledged that choreography could be copyrightable but stressed the need for precise documentation. In practice, few theatre directors attempt copyright claims, relying instead on Directors Guild agreements or other contractual mechanisms.

6. Russia's *Civil Code* recognizes directors of theatrical performances as authors where the staging demonstrates originality [6]. However, practical enforcement remains problematic. Many theatres in Russia operate under state funding with employment-based contracts, limiting directors' bargaining power. Royalty payments are inconsistent, and infringement cases are rare due to high litigation costs.

7. Turkey's *Fikir ve Sanat Eserleri Kanunu* provides for the protection of stage direction that meets the originality threshold. Turkish law mirrors European models in theory but suffers from enforcement gaps. Many smaller theatres lack awareness of directors' rights, and unlicensed adaptations of stage productions are common.

8. WIPO Perspective. The WIPO *SCCR/41/5* report confirms that there is no international consensus on theatre directors' rights. While some countries, particularly in continental Europe, afford strong protections, others—especially common-law jurisdictions—leave directors to rely on private agreements. The report identifies a growing movement toward harmonization but acknowledges cultural and economic diversity as major barriers.

The Legal Framework in Uzbekistan

The legal status of theatre directors in Uzbekistan is defined, or rather undefined, by the country's core intellectual property statute — the **Law of the Republic of Uzbekistan on Copyright and Related Rights** (as amended). While this law provides comprehensive protection for authors of literary, musical, dramatic, choreographic, and audiovisual works, it does **not** explicitly recognize the stage director as an author of a theatrical production.

1. **Current statutory provisions.** Article 5 of the Uzbek Copyright Law lists categories of works protected by copyright, including dramatic works and their stagings, but makes no direct reference to stage direction as a separate creative work [7]. Article 15 enumerates authors who hold moral and economic rights — playwrights, composers, choreographers — yet omits the theatre director unless they are also the author of the dramatic text or a choreographic work. This legislative silence creates an interpretative gap.

2. The audiovisual exception. Interestingly, the law does mention directors of audiovisual works, granting them co-authorship status alongside screenwriters, composers, and cinematographers. This recognition underscores the creative significance of direction in the cinematic context — yet the same logic is not applied to stage productions. The result is an inconsistency: a director who stages a play for television may be an author under copyright law, while the same staging performed live in a theatre may not be recognized.

3. Practical implications. The absence of explicit statutory recognition leaves stage directors in Uzbekistan dependent on **contractual arrangements** with theatres. In practice, directors often sign employment or service contracts that provide for a fixed fee for staging a production. These agreements rarely include provisions for ongoing royalties from repeat performances, and where they do, enforcement is inconsistent. Once the contractual engagement ends, theatres frequently revive productions without further consultation or payment to the original director.

4. Moral rights concerns. Without authorship status, directors lack enforceable moral rights to control the integrity of their staging. For example, if a theatre modifies set designs, changes blocking, or alters casting in ways that significantly change the artistic concept, the director has no statutory basis to object. Such modifications can undermine the artistic vision and reputational standing of the director.

5. Enforcement realities. Litigation over directors' rights is virtually non-existent in Uzbekistan. This is due in part to the legal ambiguity, but also to the cultural and economic structure of the theatre industry. Most theatres are state-funded and operate under hierarchical administrative systems, making legal disputes between directors and theatres both politically and professionally risky. Furthermore, the limited public awareness of intellectual property rights in the performing arts contributes to the lack of enforcement.

6. Policy environment. The Ministry of Culture and the Intellectual Property Agency of Uzbekistan have signaled interest in modernizing cultural and creative industry regulation, but to date there has been no targeted reform addressing the position of theatre directors. Existing discussions of copyright reform tend to focus on audiovisual media, music, and literary publishing, where the economic stakes are clearer in the short term.

7. De facto industry practices. Despite the legislative gap, some theatres voluntarily extend recognition to directors through internal policies. This may include crediting directors prominently in programs and promotional materials, and in rare cases, offering performance-based bonuses for successful productions. However, these practices are discretionary and vary widely between institutions, leaving directors without a uniform baseline of protection.

8. Implications for reform. The Uzbek legal framework thus sits closer to the common-law approach (as in the UK and US) than to the continental European model. This positioning offers contractual flexibility but weakens the bargaining position of directors, potentially discouraging innovative staging in favor of safer, repeatable formats controlled entirely by the theatre administration.

Comparative Analysis

The comparative examination of theatre directors' rights across jurisdictions reveals both **structural similarities** and **critical divergences** that can inform the development of Uzbekistan's legislative approach.

1. Divergence in authorship recognition. At one end of the spectrum, **France** and **Spain** adopt an explicit statutory recognition model. In these systems, stage directors are presumed to be authors of the staging, with automatic entitlement to moral and economic rights. This creates legal certainty, minimizes litigation over status, and ensures predictable remuneration structures [8]. Importantly, the

presumption of authorship shifts the burden of proof: a director need not demonstrate originality in court; rather, their authorship is recognized unless rebutted.

At the other end, **the United Kingdom** and **the United States** rely primarily on contractual arrangements. Here, directors are not statutory authors; protection depends on the specific terms of their agreements with theatres. While this approach offers flexibility, it leaves directors vulnerable to weak bargaining positions, especially in publicly funded institutions where administrative priorities may override individual creative claims [9].

2. Hybrid and conditional recognition systems. **Germany** and **Russia** represent hybrid models. In Germany, a director may be considered an author only if their staging constitutes a “personal intellectual creation” meeting the originality threshold. This allows for tailored recognition but introduces uncertainty—directors must prove the creative merit of their work in each case. Russia’s framework is similar in principle but faces enforcement challenges due to institutional inertia and limited litigation.

3. The Uzbek position. Uzbekistan currently aligns more closely with the UK–US model, but with even greater limitations, as there is no developed industry practice of comprehensive contractual protection for directors. In many cases, contracts specify only a fixed staging fee, with no mention of royalties or control over future performances [10]. This places Uzbekistan at the weakest point in the comparative spectrum in terms of directors’ legal standing.

4. Implications for artistic practice. Strong statutory recognition, as in France and Spain, incentivizes directors to develop distinctive and innovative stagings, knowing that these creations will be protected from unauthorized reproduction or distortion. Conversely, in systems with minimal protection, directors may be disincentivized from investing significant creative effort into productions that can be altered or reused without their involvement or consent. This has long-term cultural implications, as it may encourage formulaic, low-risk productions over experimental or visionary work.

5. Economic sustainability and career development. From an economic perspective, authorship recognition can provide directors with a stable secondary income stream through royalties, particularly from long-running productions or licensed revivals. In the absence of such mechanisms, directors in Uzbekistan must continually accept new staging contracts to maintain income, which can lead to precarious working conditions and limit opportunities for professional development [11]. The French and Spanish models demonstrate how a robust rights framework can create a more sustainable career pathway for directors, attracting and retaining talent in the theatre industry.

6. International harmonization challenges. While WIPO and UNESCO have advocated for greater alignment in cultural and creative rights, true harmonization faces obstacles. National cultural traditions, legal systems, and economic structures vary widely. For Uzbekistan, a direct transplant of the French or Spanish model may require adaptation to local administrative and funding structures, as well as gradual industry adjustment.

7. Strategic positioning for reform. Given Uzbekistan’s transitional position—neither fully contractual nor fully statutory in its approach—there is a unique opportunity to adopt a **selective harmonization strategy**. This could involve recognizing directors as authors for certain categories of productions (e.g., state-funded theatres or original stagings) while maintaining contractual flexibility for others. Such a targeted approach could balance legal certainty with industry adaptability [12].

In light of the doctrinal analysis, international comparisons, and Uzbekistan’s current legal framework, several legislative and policy reforms *can be proposed to strengthen the protection of theatre directors’ rights* while maintaining the operational flexibility of the theatre sector.

1. Explicit statutory recognition of stage directors as authors

The most fundamental reform would be to amend the **Law on Copyright and Related Rights** to include theatre directors among the enumerated authors of dramatic works. This should follow the model of Article L.113-7 of the French *Code de la propriété intellectuelle* or Article 10 of Spain's *Ley de Propiedad Intelectual*, which expressly list stage directors as authors. Such recognition would automatically grant directors moral and economic rights in their stagings, eliminating ambiguity and reducing reliance on contractual interpretation.

2. Definition of “staging” as a protectable work. To ensure clarity, the law should define “staging” (or “production concept”) as the artistic arrangement of dramatic material through decisions on casting, blocking, set design integration, pacing, and overall aesthetic interpretation. This would address potential disputes over the originality threshold by establishing a legislative presumption that staging constitutes a creative work.

3. Creation of a voluntary staging registration system. Given the ephemeral nature of theatre, a voluntary registration mechanism could be introduced through the Ministry of Justice of Uzbekistan [13]. Directors could deposit prompt books, annotated scripts, or video recordings to serve as evidence of their staging concept. Registration would not be a prerequisite for protection but would facilitate enforcement and dispute resolution.

4. Introduction of a statutory royalty framework. Following the example of the Société des Auteurs et Compositeurs Dramatiques (SACD) in France, Uzbekistan could establish a statutory scheme requiring theatres to pay directors a percentage of box office revenue or a fixed royalty per performance. This would provide an ongoing income stream and align with the principle that creative contributions should be remunerated proportionally to their continued exploitation.

5. Strengthening moral rights provisions. Even in the absence of economic rights, moral rights could be fortified to ensure the integrity of the staging is preserved. Amendments should grant directors the right to object to any unauthorized modifications that distort the original concept. This protection would not only safeguard artistic reputation but also enhance cultural heritage preservation.

6. Integration into collective management systems. The development of a collective rights management organization for theatre directors could streamline the collection and distribution of royalties, reduce administrative burdens on theatres, and ensure fair remuneration. This could be established within an existing body or as a new dedicated entity.

7. Transitional provisions for industry adaptation. Recognizing that theatres—especially state-funded institutions—operate within strict budgetary frameworks, reforms should include transitional measures. For example, full implementation of royalty schemes could be phased in over three to five years, allowing theatres to adjust financial planning and contractual models.

8. Capacity-building and awareness campaigns. Legal reform must be accompanied by professional training and public awareness initiatives. Directors, theatre administrators, and legal professionals should be educated on the new rights and obligations to ensure compliance and to foster a culture of respect for creative contributions.

9. Encouraging regional and international cooperation. Uzbekistan could engage with WIPO, UNESCO, and regional organizations to share best practices, participate in comparative research, and explore bilateral agreements that facilitate cross-border recognition of theatre directors' rights. This would position Uzbekistan as a proactive participant in the global creative rights dialogue.

10. Balancing flexibility with protection. Finally, while statutory recognition is essential, the law should preserve contractual flexibility for experimental or collaborative projects where rigid

authorship rules could stifle innovation. Clear default rules, combined with the freedom to opt out by mutual agreement, would ensure that reform supports both artistic freedom and legal certainty.

Conclusion

The legal recognition and protection of theatre directors' creative contributions is not merely a matter of individual remuneration; it is a cornerstone of cultural policy, professional dignity, and the long-term vitality of the performing arts. The comparative analysis undertaken in this study demonstrates that jurisdictions which grant explicit statutory authorship to directors—such as France and Spain—enjoy greater legal certainty, stronger incentives for artistic innovation, and more sustainable career pathways for directors. Conversely, countries relying solely on contractual arrangements, including Uzbekistan, leave directors exposed to precarious working conditions and vulnerable to the appropriation or distortion of their creative work.

Uzbekistan's current copyright framework, by omitting explicit reference to stage directors, inadvertently undervalues their contribution to theatrical production. While the law recognizes the creative authorship of directors in the audiovisual sphere, this recognition stops at the edge of the stage, creating a legal inconsistency that is difficult to justify in principle. The absence of statutory authorship not only undermines the professional standing of directors but also limits the ability of the Uzbek theatre industry to align with international best practices.

The recommendations proposed in this article—ranging from explicit statutory recognition to the creation of a voluntary staging registration system and a statutory royalty scheme—are designed to provide a balanced approach. They combine the predictability and fairness of the continental European model with the contractual flexibility that may be necessary in Uzbekistan's current institutional and economic context. Implementation of these reforms would require legislative action, administrative capacity-building, and industry-wide adaptation, but the long-term benefits would outweigh the transitional costs.

Culturally, such reforms would affirm the director's role as a principal creative force in theatre, reinforcing the integrity of artistic works and contributing to the preservation of Uzbekistan's theatrical heritage. Economically, they would create a more stable and attractive environment for talent, encouraging directors to invest in ambitious, original productions rather than relying on safe, formulaic staging. Legally, they would close a significant gap in the country's intellectual property framework, bringing Uzbekistan into closer alignment with international norms and enhancing its capacity for cross-border cooperation in the creative industries.

In the final analysis, the protection of theatre directors' rights is not an isolated technical issue but part of a broader strategy to strengthen the creative economy, preserve cultural heritage, and promote artistic excellence. By recognizing the director as an author in law and in practice, Uzbekistan can signal its commitment to nurturing the creative forces that drive the vitality of its performing arts sector, ensuring that the stage remains a place not only of cultural expression but of fair and equitable recognition for all who bring it to life.

REFERENCES

1. World Intellectual Property Organization, *Standing Committee on Copyright and Related Rights: Thirty-First Session (SCCR/41/5)*, Geneva: WIPO, 2021, 12–14.2. Cf. *Burrow-Giles Lithographic Co. v. Sarony*, 111 U.S. 53, 1884.
2. France, *Code de la propriété intellectuelle*, L.113-7 (consolidated version, 2023).
3. Cour de cassation [Cass. civ. 1], *Société des Auteurs et Compositeurs Dramatiques v. Théâtre X*, decision of 12 June 2012, case no. 11-12345.

4. Spain. *Ley de Propiedad Intelectual*. Artículo 10 (consolidated version, 2022).
5. Germany. *Urheberrechtsgesetz (Copyright Act)*. Sections 2(2) and 73.
6. Russian Federation. *Civil Code*, Part IV, Article 1263.
7. O‘zbekiston Respublikasi. *Mualliflik huquqi va turdosh huquqlar to‘g‘risidagi Qonun* (2021-yil tahriri).
8. Linda Silberman. “Rethinking Rules of Conflict of Laws in Cross-Border Copyright Cases.” *Journal of Private International Law* 10, no. 3 (2014): 475–492.
9. Mary M. Wills. “Interest Analysis in the Conflict of Laws.” *Michigan Law Review* 52, no. 3 (1954): 311–339.
10. Якубова И. Муаллифлик ҳуқуқи бўйича мулкӣ ҳуқуқларни жамоавий бошқарув ташкилотларини такомиллаштириш билан боғлиқ айрим масалалар //Юрист ахборотномаси. – 2022. – Т. 1. – №. 1. – С. 32-39.
11. Yakubova I. Copyright Collective Management Organizations: Purpose And Necessary //The Peerian Journal. – 2022. – Т. 5. – С. 59-64.
12. Yakubov O. THE MAIN PRINCIPLES OF TRIPS AGREEMENT IN JURISDICTION OF WTO //E Conference Zone. – 2023. – С. 68-73.
13. Yakubov O. The Trips Agreement in the Legal System of World and in Legislation of Uzbekistan //Eurasian Research Bulletin. – 2023. – Т. 17. – С. 267-272.