

COMPENSATION OF INTEREST FOR AUTHOR AND OWNER OF THE STRUCTURE IN CASE OF ARCHITECTURAL WORKS OF ART- 2011

According to the Law of Intellectual and Artistic Works (Turkish Copyright Law) No. 5846, the owner of a work does get the tangible and intangible rights derived from the work. One of the intangible rights is the prohibition of modifications on the work (Art. 16 of the Copyright Code). Another intangible right is the power of the prohibition of any destruction and/or demolition of the work (Art.17/II of the Copyright Code). The owner of the work may claim his/her cited rights against any third party as well as the possessor of the original as they are of absolute rights.

On the other hand, the owner of the structure has a proprietary right arising from the law of property (Art. 683 of the Civil Code). In this context, the owner of the structure has the rights of *usus*, *fructus* and *abusus* within the frame of the legal order.

Briefly, there are two right owners on the same substance/structure. On one hand, the owner of the work seeks to use his/her copyrights on the structure; on the other hand the owner of the structure seeks to use its right of *abusus* on the structure. Architectural works of art are undoubtedly one of the most common fields wherein interests of the work and possessor of the original conflict in law. Finding a balance between the parties' interests is crucial in practice. This study focused on balancing the parties' interests.