

**INTERNATIONAL ITALIAN LAW OFFICE
ITALIAN LAWYER DR. ALFONSO MARRA
LAWYER LINGUIST**

QUALIFIED FOR THE BILINGUALISM GERMAN - ITALIAN LANGUAGE
BY THE AUTONOMOUS PROVINCE OF BOLZANO, ITALY
QUALIFIED AT THE STATE EXAM HSK OF CHINESE LANGUAGE PROCIENCY HSK OF PEKING
QUALIFIED AT THE STATE EXAM OF FRENCH LANGUAGE PROCIENCY
AT THE FRENCH INSTITUTE OF NAPLES "LE GRENOBLE"
PARTECIPANT IN THE COURSE OF DUTCH LANGUAGE AT THE UNIVERSITY OF UTRECHT
IN POSSESSION OF THE CERTIFICATE OF DEPTH STUDIES IN APPLIED EUROPEAN UNION LAW
AT THE UNIVERSITY OF SALERNO
SPECIALIST IN CIVIL LAW AT THE UNIVERSITY OF CAMERINO
SPECIALIZED IN LEGAL PROFESSIONS AT THE UNIVERSITY OF SALERNO
INTERPRETER AND TRANSLATOR AT THE NAPLES CHAMBER OF COMMERCE
INTERPRETER AND TRANSLATOR AT THE PUBLIC PROSECUTOR' S OFFICE AND THE COURT OF NAPLES
LEGAL ADVICE AND AID IN ITALIAN – ENGLISH – GERMAN – CHINESE – GREEK – FRENCH LANGUAGE
TELEPHONE: 0039 335 69 48 594
e-mail: avvalfonsomarra@yahoo.it
INTERNET WEB SITE: www.studiolegaleinternazionaleavvocatoalfonsomarra.it

Moral copyright and Pope's literary works

of the Lawyer Dr. Alfonso Marra belonging to the Naples Bar Association

Copyright law has two meanings: moral copyright law and patrimonial copyright law (copyright royalties).

Particularly, as protection of the moral copyright law, art. 20 italian Law 22/04/1941 n. 633 gives to the author the power to claim the paternity of his work and to make opposition against every distortion, while according to art. 23 of the same Law, after author's death legitimated to exercise the above mentioned rights are, without time limits, the blood relatives.

Here comes an interesting question.

The law speaks about blood relatives, who can surely not to coincide with the heirs. Let's consider the case of a great writer, who dies without wife, children and parents, but leaving only surviving to him a sister and he nominates as his universal heir the young attractive woman neighbour.

Now let's relate to the Pope, what above mentioned.

It's notorious that the Pope has written very important books: well, if somebody has the "brilliant" idea to counterfeit one of the Pope's works, since he has no blood relatives, who will be legitimated to act for protection of the moral copyright of the Pope on his works?

We could answer: "the Church", but the above mentioned law speaks about blood relatives, not about heirs. Let's suppose to speak about an Italian Pope and let's consider carefully the elements: Italian citizenship, the books have been sold in Italy (therefore sale's conclusion and execution's place), the counterfeit has happened in Italy.

Under the principle of law's territoriality, the enforceable law will be surely the Italian one, also because the immunities to recognize on the basis of the international law concern other cases out of our question.

Art. 23 paragraph 2 of the above mentioned Law provides that the action, if public purposes require it, can be also exercised by the President of the Council of Ministers, heard the competent union association.

Therefore, in the Pope's case, if he hasn't blood relatives and the President of the Council of Ministers thinks he has not to act, who will start a legal proceeding to defend the Pope's works?

Not only it: if the Pope is foreign, according to art. 46 Law 218/1995 about Reform of International Private Law, the enforceable law will be that national one of the *de cuius* at the death's time or that one of the State where he is resident, chosen expressly by the *de cuius*.

So: referring to the Pope John Paul II the Great, Polish citizen, to determine people who have the status of "blood relatives" and not necessarily "heirs", shall we enforce the Polish Law? Then: since a Pope's work can represent a diffused interest, the active legitimation could be recognized to religious associations, starting a class action, that is so famous and fashionable legal panorama?

Besides, generally, if there aren't blood relatives, but only a heir (after everyone heir will be the State) and therefore no legitimated to defend the moral copyright law, could we ever say it exists a right not joined to the existence of people legitimated to exercise it?

To answer these questions it's desirable an intervention by the Lawgiver to resolve the matter.

Besides, we have to say that, already before to die, the Pope John Paul II gave to the Vatican Publishing Library the copyright law of his works (and so also, today, for Pope Benedict XVI).

Therefore an editor or a cinema/television director has to pay the (patrimonial) copyright royalties to the Vatican Publishing Library.