

# **The current development of copyright law in the digital environment with the emphasis on the legislation of the EU**

## **Abstract**

This rigorous thesis follows up on the thesis from 2018 titled „Internet and Copyright“, which generally dealt with the scope of copyright law in the internet environment and was concluded by a basic presentation of the forthcoming copyright reform in the Digital Single Market in the European Union. The goal of this thesis is therefore to reflect and analyze not only the result of this reform, which was completed in the meantime at the EU level and moved to the implementation phase at the level of the member states, but also other related developments that have taken place in the field of copyright in recent years, with relevance for the digital environment and information society in general.

The thesis is systematically divided into two parts. The first, more general part creates the theoretical and legal basis of the thesis, in which the following interpretation is embedded. The first chapter thus briefly presents the basic theoretical-legal basis for copyright and the justification for its existence and offers an overview of its main legal sources relevant to the digital environment at three levels: international, EU and Czech. The second chapter deals with the general relationship of copyright with other fundamental rights: first, it analyzes the concerned interests of individual actors (from authors to producers and providers of copyrighted content to end users) and then discusses the balancing of these interests in order to achieve a fair balance as a fundamental principle of copyright law. This gives rise to certain limits for copyright, the basic characteristics of which are also presented in this chapter, as well as the approaches of the two highest European courts, the European Court of Human Rights and the Court of Justice of the European Union, when interpreting these limits. The partial conclusion of this chapter is the observation that copyright law responded to the challenges and pitfalls caused by technological development rather by strengthening copyright protection, while there are concerns that this so-called copyright expansion is not matched by an adequate limitation of copyrights.

The second part is devoted specifically to the Directive on copyright and related rights in the Digital Single Market, which is the most ambitious legislative initiative of the EU copyright law since the adoption of the so-called information directive in 2001 and which raised great expectations and caused a huge response. The third chapter generally presents this directive and its

main subject areas. The core of the thesis is then represented by the fourth chapter, which analyzes in detail the most discussed provision of the entire directive, namely Article 17 establishing new rules for sharing copyrighted content uploaded by users on online content-sharing platforms. This provision makes online content-sharing service providers primarily responsible for the unauthorized sharing of protected subject matter on their platform by users, and practically forces them (though not explicitly) to implement content filtering tools („upload filters“). Not only does this provision touch on fundamental issues such as the content of the right of communication to the public, the liability of hosting service providers based on the reactive duty of *notice-and-takedown* or the harmonization of copyright exceptions, but it is also a prime example of how difficult it is to balance conflicting interests in copyright system.

At the end of the thesis, its main insights and ideas are summarized and the analyzed development is generally evaluated with a view to the future. The conclusion underlines the opinion of the author of this thesis regarding the need for greater reflection of the user's interests in copyright law and greater emphasis on appropriate limitation of copyright.