

Non-contractual use of copyright work

Resumé

The thesis deals with the part of copyright law which enables certain uses of copyright works without their authors' consent. The objective of the work is not to research all the exceptions and limitations provided for by the Czech Copyright Act in detail, but rather to submit overall assessment of the possible conceptions and approaches to the issue in question and especially to offer the comparison of the Czech and British regulation with the special focus on the European harmonization of exemptions and limitations.

The first chapter provides a general introduction to the topic with the brief history of the two traditional approaches to copyright issues, namely the *copyright approach* and *droit d'auteur* conception which is necessary for the comparative purpose of the work. The chapter also deals with the interaction between copyright regulation and advancement of modern technologies because the latter has always influenced the development of the former throughout the history. The presentation of basic notions and brief categorization of exceptions and limitations close the first chapter.

The following chapter presents the main features and sources of international regulation of the issue. Special attention is paid to the so-called three-step test which has become general interpretative instrument of exceptions and limitations. Its interpretation has turned out to be very important for the functioning of the whole copyright system. In this context, the thesis researches the development in the interpretation of the test, especially the decision of the WTO Panel in the dispute between the European Communities and the United States of America and the recent declaration of the foremost European scholars (*Declaration: A Balanced Interpretation of the „Three-step Test“ in Copyright Law*). The latter denies restrictive interpretations of the test and calls for more balanced approach to the issue. Even though the declaration is not binding in any way, it can be perceived as a revolutionary step in the development of exceptions and limitations.

The third chapter focuses on the European harmonization of exceptions and limitations, especially on the Information directive. The difficult and long negotiations leading to the adoption of the directive have influenced its final wording and the result is rather modest harmonization of the issue. The chapter denotes the history of the instrument as well as its content. The directive prescribes only one compulsory exception and provides for a wide range of optional limitations. However, the imperfection of harmonization could be partially overcome by the decisions of the European Court of Justice.

The two following chapters dealing with the regulation in the United Kingdom and the Czech

Republic focus on certain representative exceptions and their comparison in the light of the European harmonization. The basic distinctions of the two systems of limitations stem from different historic and theoretical background. Despite the efforts of European legislation to harmonize the regime of limitations, the distinctions are considerable. Unlike the Czech Republic and numerous other European countries, the United Kingdom does not provide for a broad exception for private copying which is connected with the non-existence of private copying levies. The conceptual distinction, which is of a great importance, is the role of courts in interpreting basic notions of copyright law. In comparison with their Czech counterparts, British judicial decisions have evolved throughout the centuries and provide for significant theoretical and practical background. On the other hand, the both states have in common that courts do not work with the three-step test.

The final chapter summarizes the research with the result that the European harmonization of exceptions and limitations is rather modest and imperfect.

Klíčová slova: autorské právo – výjimky – Informační směrnice

Key words: copyright – exceptions – Information directive