

In 2005 the Parliament of the Czech Republic adopted an amendment of Act No. 121/2000 on Copyright Law and Rights Related to Copyright [hereinafter Copyright Act]. The Copyright Act amendment set up three new exceptions to the author's exclusive right to exploit his or her work. The author deals with harmony of these three exceptions with international copyright law system and European copyright law. In the broad context the author discusses problems related to the changing scope of the exceptions and limitations under international treaties and then considers how to balance the interest of proprietors and the public.

In order to achieve objectives, he tried to analyze two basic rules of international and European law. First of them is the well known rule which is the three-step test. The author examines the wording of the restriction found in the original Berne Convention for the Protection of Literary and Artistic Works 1886 and its subsequent revision to include the three-step test. He describes in detail the subsequent changes to the test's application following its inclusion in the Agreement on Trade-Related Aspects of Intellectual Property Rights, the Internet Treaties and European Parliament and Council Directive 2001/29 [hereinafter Information Society Directive]. Historical development of the three-step test unambiguously demonstrates, that the test has evolved from an intentionally vague requirement, addressees of which could determine by themselves whether they had fulfilled it, into a form of a test for the judiciary use. The three-step test has developed into a legal instrument capable of challenging the exceptions to copyright, to the detriment of its social function and of a just balance amidst the interests involved.

The author of the diploma thesis comments on the WTO Panel ruling - in the EU vs. USA dispute - on the extent to which national law may make exceptions to the exclusive reproduction rights of copyright proprietors under international law. He interprets the three-step test under the international treaties and the WTO Panel members reasoning. He also debates requirements that an exception must be limited to certain special cases, must not conflict with the normal exploitation of the work and must not unreasonably prejudice proprietor's legitimate interests. Although there are areas where the Panel's decision could be criticised, there are still several lessons one can learn from. Indeed, it is of huge benefit to have two exceptions analysed in detail, whether or not other courts [particular the ECJ] accept some of Panel's views. At the end of the "three-step test part" the author applies acquired knowledge on three national exceptions after a general analysis of the three-step test. The second important rule for the process of making exceptions and limitations in the copyright law is in our case the Information Society Directive which harmonizes exclusive rights and exceptions and limitations of these rights in the field of copyright and related rights. The process of adoption and transposition of the directive is described in general. The special attention is paid to the Article 5 which constitutes some exceptions and limitations to the author's right to communicate his work to the public. Naturally, the author can't omit the role of the ECJ in the interpretation of European law. He comments on an important ECJ decision in the case Rafael Hoteles SL [C-306/05] on whether hotels which provided television sets in guests' bedrooms and relayed broadcasts by cable retransmission were liable to pay copyright royalties. He discusses the meaning of an act of communication to the public under the Information Society Directive. At the end of this work the author discusses problems related to the contemporary wording of the Copyright Act and gives his own opinion of resolving a conflict of Copyright Act's Paragraph 23 with the international and European obligations of the Czech Republic.