

# ABSTRACT

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**A comparison of copyright protection of authors and performing artists**

The main goal of this thesis is to compare the key aspects of the copyright protection of authors and performing artists in the Czech Republic. The basic differences are explained with respect to its historical evolution, which is put into context with the current social situation in the field of art.

The paper is divided into six chapters. The first chapter gives an explanation of the basic terminology used in the area of copyright law and sets the frame for the comparison of authors and authorship and performing artists and their artistic performances. In the Czech Republic, authorship is based on the expression of a piece of art in any way perceivable by human senses. There is no registration principle in effect. This fact provides the starting point for the protection of authors' rights. Therefore it is important to precisely define what can be considered a piece of art and who can be recognised as an author or a performing artist.

The second chapter deals with the legal treatment of authors according to the Czech Copyright Act and other legal regulations, including the recent case law and description of the most often infringements of the copyright law. Besides the Copyright Act, authors' rights are also protected by other legal acts such as the Civil Code, the Commercial Code and the Criminal Code. There are various penalties and forms of punishment for copyright infringement in the Czech Republic.

The third chapter defines the artistic performance and the legal requirements for performing artists. This chapter is strongly focused on the main subject of the thesis – the comparison of copyright protection of performing artists and authors. The basic instruments of the performing artist's protection are compared to the instruments covering the author's protection. As a result, this comparison shows that the protection of performing artists in the Czech Republic is quite similar to the authors' protection. Some sections of the Copyright Act protecting the artists are referring to sections in the part of the author's protection, while some instruments used in the author's protection are not applicable to performing artists. The protection of authors is more complex and the list of the pieces of art covered by the

Copyright Act is not exhaustive. On the other hand, the definition of the artistic performance is exhaustive and finite, with no space left for possible extensions.

The next chapter focuses on the comparison of the duration of copyright protection. In this case, the position of authors is stronger than the position of performing artists. The author's protection lasts during the author's life and seventy years after the author's death, whereas the protection of the performing artist's rights lasts only fifty years after the artistic performance took place or after the recording of the work was first published. This fact leads to the weakening of the economic stimulation of artists, as they can outlive the protection of their own rights, and it has also broader negative economic influence: according to the EU statistics, only five per cent of performing artists can "afford" to earn money for living solely by their artistic activity. Prospectively, the duration of the performing artist's right should be prolonged up to ninety years according to the EU statement.

The fifth chapter gives a brief overview of the organizations providing the collective administration of copyright rights. Some of the rights are administered collectively as it is useful and also easier than the individual administration. There are several organizations administering the author's rights, but there is only one organization providing the support to performing artists and producers of sound and sound-visual recordings. The last part of the chapter examines the possibilities of the adjustment of payments for the use of the pieces of art protected by the copyright law with respect to educational purposes.

The next chapter deals with various topics arising from application of Czech Copyright Act. This chapter is focused to viewpoint *de lege ferenda* and principle of good manners in artistic contracts, incorporation of rights into the physical media such as CD and finally there is reflection of fairness of collection of alternate author's rewards.

Finally, the summary and conclusion in the last chapter set up the comparison of copyright protection of authors and performing artists as follows. The overall level of the copyright protection of authors and performing artists in the Czech Republic can be described as satisfying. Nevertheless, there are some weaknesses in the protection of the performing artists in comparison to the protection of authors, concerning especially the duration of the protection and the number of organizations focusing on the performing artist's rights protection.