

Film Law: A Copyright Perspective (Abstract)

The rigorous work describes and analyses the film law, understood as a set of norms of public and private law, bound by common denominator in the form of direct or indirect regulation of production and exploitation of film, with a special focus on film copyright. The work focuses on contemporary and historical treatment of the film copyright in the Czech Republic, while in some parts performs its comparison with the film copyright in other countries, particularly in the United States of America.

The first section defines the general mutual relations between film and law, especially in terms of copyright and the right to freedom of expression. Inter alia, it also deals with the question of film as “art”, and how this issue plays a role in its legal regulation.

The second part of the paper specifies the basic terms and concepts which could be found in the film law as well as in the practical film production and distribution itself governed by this law. First of all, the paper defines the main areas of the film law in general, meaning copyright and its neighbouring rights, unfair competition law, media law, advertising law and protection of personality rights. Further on, it is specified what could be understood in legal theory by terms film, film work, audiovisual work, cinematographic work and underlying work. Moreover, the paper briefly explains the process of film production, its function, stages and forms, as well as the following process of the film distribution. Finally, this part of the paper defines and explains the main professions which are to be found within the ordinary film crew in the whole course of the film production, as well as the practical and legal nature of the dramatic art (acting).

The third part of the thesis summarizes the up-to-now development of the copyright protection of films in the territory of the Czech Republic and the former Czechoslovakia (and partly Austria-Hungary), but also the development in this area of law in other national laws of the European states, the United States of America, as well as on the level of the international and EU law.

The fourth part explains how the conception of the film production and distribution is legally construed in the present Czech Republic. It argues that the professional film production as well as distribution does mainly take form of the business in trade, and that in the course of this undertaking the subjects in question must abide by, among others, the so-called Audiovisual Act. Particular attention is paid to the question of authorship in the film and its implications for the legal concept of film style and genre. Furthermore, there are described some of the specific questions of film distribution such as legal regulation of film posters, film subtitles or dubbing; there is also analysed the Audiovisual Media Services On Demand Act, which represents a new form of legal regulation of the film distribution by the so-called video-on-demand services. There are also described in detail the legal relationships which come into being during and after the film production between the producer on one side, and the members of the film crew, actors, distributor and spectator on the other side.

The fifth part of the paper is devoted to the issue of contracts used in the area of the film copyright, particularly the use of the institute of licence in the film production and distribution – meaning partly the so-called statutory licences, but most of all the licences which are negotiated in the contracts. Within the scope of the commentary on the contractual licences, there are among other things explained the conditions of the interference with the general personal rights, but as well the conditions of the so-called product placement and merchandising.

The sixth part of the thesis deals with the relevant judicial decisions in the Czech Republic and in the United States of America.