

CERTAIN ASPECTS OF COPYRIGHT IN THE DIGITAL SINGLE MARKET OF THE EUROPEAN UNION, CURRENT DEVELOPMENT

ABSTRACT

This rigorosum thesis „Certain aspects of copyright in the digital single market of the European Union, current development“ concerns with the modernization of copyright within the EU.

The main target of this thesis is to introduce and critically analyze selected articles of the proposal for a directive COM (2016) 593 final on copyright in the Digital Single Market (hereinafter referred to as the „DSM directive“) in wording proposed by The / A Commission in September 2016 (the description of some omitted provisions are included) and subsequently compare them with the amendments of the European Parliament and its committees. Particularly by the presentation of the professional public’s opinions, I examine whether the selected provisions are proportionate, appropriate and able to reach intended targets. In the situations where I find it problematical I deal with the questions of possible compatibility and coexistence of the proposal with the current legal framework in the future.

The thesis is concerned with documents proposed by the EU within the program of modernization copyright since 2016 and reflects development of the DSM directive proposal until the end of November 2018 when the manuscript was closed. However, in the context of introducing broader context and development lines, I refer to earlier documents as well.

In the introduction of the thesis I briefly deal with reformation of copyright in the EU, its causations and intentions. The core of the thesis is divided into two main parts – exceptions from the copyright and the measures to achieve a well-functioning marketplace for copyright.

The part dealing with the exceptions is compounded of two sub-chapters. The first one analyzes the proposal to introduce new exception for texts and data mining, in particular its scope and possible impact. The second part analyzes the phenomenon of user generated content and stresses the necessity of a harmonized

legal framework. Later I also introduce a few concrete proposals of new user generated content exceptions presented by the European Parliament committees within the debate over the DSM directive.

From the measures to achieve a well-functioning marketplace for copyright, as proposed by DSM directive, the thesis focuses on Article 13 of DSM directive and its controversy. In particular, it deals with the possibility of coexistence of Article 13 with current legislation and judicature (the relationship with fundamental rights, safe harbor doctrine, communication to the public), the possibilities of its implementation (automatic control of upload and the link to the ban on the general oversight obligation) and the impacts of vague provisions.