

The Application of Copyright in the Film Production

(Abstract)

This diploma thesis on a general basis describes and analyses the application of copyright in the film production. Because the copyright regulating the relationships coming from the process of production and exploitation of audiovisual work is the part of a broader group of norms comprised within the transbranchial “film law”, this paper also indicates what other legal enactments – of civil law as well as of public law origin – have to be respected in the film production.

The first 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 itself governed by this law. First of all, the paper defines the main areas of the film law, 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. Next, 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 second 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, but also the development in this area of law in other national laws of the European states as well as on the level of the international and EU law.

The third part explains how the conception of the film production is legally construed in the present Czech Republic. It argues that the professional film production does mainly take form of the business in trade, and that in the course of this undertaking the producer must abide by, among others, the so-called Audiovisual Act. Next, it describes 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. The rest of this part is dedicated to the description of 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 fourth part of the paper addresses to the application of the institute of licence in the film production – 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 fifth part of the diploma thesis deals with several relevant judicial decisions.

The sixth and last part summarizes the key actual document of the Czech Ministry of Culture called Conception of the Support and Development of the Czech Cinematography 2011 – 2016. This paper analyzes the legal and economic state of the present Czech cinematography, and on the basis of that it suggests fourteen arrangements which are supposed to improve the status quo.