

Implementation of the Beijing and Marrakesh Treaties in the Czech Copyright Law

Beijing Treaty on Audiovisual Performances (2012) was signed by the Czech Republic on 29 April 2013.

The Czech Parliament has already agreed with ratification. A date of intended joint deposition of instruments of ratification on behalf of European Union and its individual member states with the Director General of WIPO has not been coordinated and decided yet.

All the necessary provisions and obligations arising from the Treaty are included in the Czech Copyright Act No. 121/2000 Coll., as amended, as follows:

Article 67

Artistic Performance and Performer

(1) An artistic performance is the performance of an actor, singer, musician, dancer, conductor, choirmaster, director or any other person who acts, sings, recites, presents or otherwise performs an artistic work, including works of traditional folk culture. The performance of an artiste, although he shall not perform an artistic work, shall also be deemed an artistic performance.

(2) A performer is the natural person who created the artistic performance.

Article 69

Content of Performer's Rights

The right of the performer shall include exclusive moral rights (Article 70) and exclusive economic rights (Article 71).

Article 71

Economic Rights of Performer

(1) The performer shall have the right to use his artistic performance in its original version or in a version adapted or otherwise altered by any other person, and to grant by contract to another person the authorisation to exercise this right; another person may only use the artistic performance without such authorisation in the cases stipulated by this Act.

(2) The right to use an artistic performance shall be understood to mean:

- a) The right to broadcast and otherwise communicate the live performance to the public;*
- b) The right to make a fixation of the live performance;*
- c) The right to reproduce of the fixed performance;*
- d) The right to distribute the reproductions of the fixed performance;*
- e) The right of rental of copies of the fixed performance;*
- f) The right of lending of copies of the fixed performance;*
- g) The right of communication of the fixed performance to the public.*

(3) The performer shall be entitled to remuneration in connection with the reproduction of his fixed performance for personal use, mutatis mutandis, pursuant to Article 25.

(4) A performer who granted a phonogram producer, by contract, an exclusive and unrestricted license for the use of the performer's fixed performance for a non-recurring remuneration, shall be entitled to annual supplementary remuneration. Such remuneration shall be due to the performer for each full year immediately following the 50th year after the

phonogram was lawfully published, or, if not published, lawfully communicated to the public. The performer cannot waive the right to the annual supplementary remuneration.

Article 73

Duration of Performer's Economic Rights

The economic rights of the performer shall run for 50 years from the creation of the performance. However, where

a) a fixation of the performance other than a phonogram was lawfully published or lawfully communicated to the public during that period, the rights of the performer shall expire 50 years from the date of the first such publication or the first such communication to the public, whichever is the earlier, or

b) a phonogram of the performance was lawfully published or lawfully communicated to the public during that period, the rights of the performer shall expire 70 years from the date of the first such publication or the first such communication to the public, whichever is the earlier.

Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (2013) was signed by the Czech Republic on 27 June 2014. The process of ratification will start once an issue of the mandate for the European Commission on concluding the Treaty, including an issue of necessary harmonization of the EU law, is solved. Some amendments and additions to the below provision before ratification are assumed to comply fully with the Treaty.

An exception beneficial to the disabled (generally, not only for the visually impaired) is currently included in the Czech Copyright Act as follows:

Article 38

Licence for the Disabled

(1) Copyright is not infringed by anybody who:

- a) exclusively for the benefit of people with disability and not for the purpose of direct or indirect economic or commercial advantage, makes a reproduction or has a reproduction made of a published work to the extent required by the specific disability; a reproduction so made may also be distributed and communicated by the same person, unless this is done for the purpose of direct or indirect economic or commercial advantage;*
- b) exclusively for the benefit of people with vision disability and not for the purpose of direct or indirect economic or commercial advantage, provides the verbal expression of the visual component and adds it to the audio component of an audiovisual recording of an audiovisual work; the audio component of the audiovisual recording of an audiovisual work may also be reproduced, distributed and communicated by the same person, unless this is done for the purpose of direct or indirect economic or commercial advantage.*

(2) Copyright is not infringed by the person referred to in Article 37 (1), if the originals or reproductions of published works are lent to meet the needs of people with disability in connection with their disability.

(3) Provisions of Article 30 (5) shall apply mutatis mutandis.

Pavel Zeman, Director of the Copyright Department of the Ministry of Culture

Prague, 28 April 2015

