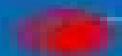


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The Originality Standard of Photographic Works in EU Copyright Law Marián Jankovič, 2025-01-24 Originality Standard of Photographic Works in EU Copyright Law By Mari n Jankovic Marian Jankovic The omnipresence of photographic products in almost everyone s lives is considered natural almost unavoidable If one makes the connection of the said omnipresence with the constant development of new technologies the increase of interactions with possible legal consequences involving photographic products as a potential subject matter appropriable by copyright might be expected to be inevitable Such outlined situation brings the necessity to sufficiently legally define and clarify under which circumstances in other words upon the fulfilment of what conditions and criteria can a photographic product be considered the subject matter of copyright This shall be done in order to assure the legal certainty of both the photographers as well as the potential users of their photographic products The medium of photography especially its production process necessitating involvement of technological equipment is not as easily graspable and comprehensible as other traditional works of art This ambiguity has been also carried over into the legal area which resulted in various differentiating treatments of photographic products within the national copyright frameworks of Member States of the European Union Chosen for the highlighting of the already mentioned various differentiating treatments and their particularities copyright frameworks of Germany France Czech and Slovak republics have been chosen as basis for the conducted research The European Union has tried to remedy the outlined state of affairs by way of the so called harmonisation As part of its first phase a legislative framework in a form of Directives has been created Within the said framework a condition for appropriability of photographic products by copyright has been formulated the so called originality standard of author s own intellectual creation As part of its second phase the said originality standard formulated via the previously created legislative framework has been applied in practice and enhanced by the Court of Justice of the European Union with the addition of a personal touch As a result of both phases combined a solely applicable requirement for appropriation of photographic products by copyright within the copyright framework of the European Union has been formulated The figurative trigger for the initiation of the said second phase a legal dispute revolving around the use of an official portrait photographic product depicting a pupil without the photographer s consent has been chosen by the Court of Justice of the European Union Whether the outlined state of affairs consisting of various national differentiating treatments of photographic products has been remedied indeed will be demonstrated on the assessment of the current position of photographic products after the completion of both harmonisation phases within the four selected national copyright frameworks In particular the applicability of the harmonised originality standard as well as the applicability of the said national particularities will be assessed

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concilier les intérêts des auteurs avec ceux des producteurs sans pour autant oublier les revendications des consommateurs Plus que jamais le droit d'auteur est la croisée des chemins Le présent ouvrage propose une présentation tant du droit d'auteur 1re partie que de ses droits voisins 2e partie qui allie pratique et théorie La matière est analysée d'une façon synthétique mais aussi critique travers les grands thèmes qui sont l'objet de la protection la titularité des droits les prérogatives de l'auteur la mise en œuvre des droits travers le contrat et la gestion collective sans oublier la défense des droits par l'action en contrefaçon Ce manuel est destiné aux étudiants aux praticiens du droit d'auteur avocats juristes d'entreprise magistrats aux universitaires et toute personne qui se passionne pour ce droit des belles formes qui est le droit d'auteur Cette quatrième édition fortement enrichie par rapport à la précédente intègre notamment la réforme du contrat d'édition ainsi que la loi sur les œuvres orphelines et la durée des droits voisins mais aussi toute l'actualité de la discipline jusqu'au 30 août 2015

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