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GRZEGORZ TYLEC

UNNAMED FORMS OF PROTECTION FOR IMMOVABLE MONUMENTS CLASSIFIED AS ARCHITECTURAL WORKS AS IMPLIED BY THE ACT ON COPYRIGHT AND RELATED RIGHTS

PRELIMINARY REMARKS

The regulations of contemporary law in Poland contain legal norms related to the protection of cultural heritage represented by intangible assets gained by society such as literary and artistic heritage. The lion's share of this heritage is represented by works of architectural character. Historical values of this kind are protected mainly by public-law regulations. The core of such regulation can be found in a body of normative acts on monument protection, including the act of 23 July 2003 on the protection and care of monuments.[1] Creative and aesthetical values, as well as the economic potential inherent in this kind of legal goods is liable for protection by means of private-law regulations. First and foremost, we need to mention the act of 4 February 1994 on copyright and related rights[2] and the act of 23 April 1964

Dr. Hab. Grzegorz Tylec, an associate professor at the John Paul II Catholic University of Lublin (KUL), Department of Visual Communication, Institute of Journalism and Social Communication, Faculty of Social Sciences, KUL; address: Al. Racławickie 14, 20-950 Lublin, Poland; e-mail: grzegorztylec@kul.lublin.pl

For more on this, see A. Niewęgłowski, M. Poźniak-Niedzielska, Ochrona niematerialnego dziedzictwa kulturalnego (Warsaw: Wolters Kluwer Polska, 2015), 150–78.

[1] Act of 23 July 2003 on the protection and care of monuments, Journal of Laws of 2014, item 1446 as amended. [hereafter cited as PCM].

[2] Act of 4 February 1994 on copyright and related rights, Journal of Laws of 2016, item 666 as amended [hereafter Copyright Act or CA].

known as the Civil Code.[3] What is specially interesting from the legal perspective is the clash of these two legal regimes and a legal assessment of the consequences of this phenomenon. This is illustrated by the range of issues related to protection of architectural monuments under the Copyright Act addressed in this paper.

The research problem stipulated in the presented study is how to answer the question under what circumstances the regulations of the law on copyright and related rights apply in respect of architectural monuments in use, and whether or not their application can be termed as unnamed form of monument protection. We also need see how protection of the public interest represented by the need for preserving architectural cultural heritage and by the concern for the common public good will affect the interpretation of provisions of private law, that is the above-mentioned copyright act and the Civil Code. We will start by defining the notions of "monument" and "architectural work" with respect to their normative function for the purposes of our further considerations.

MONUMENT QUALIFIED AS A COPYRIGHTED WORK

Art. 3 point 1, the act of 23 July 2003 on the protection and care of monuments provides a statutory definition of monument. Pursuant to this legal norm, monument is seen as "an immovable or movable object, its part or a group of movable objects, made by man or connected with human activity, bearing testimony to a past era or an event, the preservation of which lies in the interest of society due to its historical, artistic or scientific value." As indicated in the literature of the subject, a specific object can qualify as a monument by the reason of its properties and qualities rather than whether or not it has been entered in the register or records of monuments by virtue of an administrative decision.[4] The currently applicable definition of monument has a material character, and therefore legal liability for its devastation or destruction does not hinge on whether it is registered or not. An administrative decision to enter a monument into the register will merely provide

[3] Act of 23 April 1964 (Civil Code), Journal of Laws of 1964, No. 16, item 93 as amended [hereafter cited as CC].

[4] "The monument inventory" referred to in art. 21 of the act on the protection and care of monuments of 2003 lays merely groundwork for drawing monument care programmes at the provincial (*województwo*), county (*powiat*), and municipality (*gmina*) level. The inventory, however, is not mentioned as a form of monument protection specified in art. 7 of the said law – see the judgement of the Provincial Administrative Court in Poznań dated September 15, 2010, file ref. no. IV SA/Po 428/10, LEX no. 758501.

for its conservation plan.[5] An entry into the register of monuments occurs by virtue of the provincial inspector of monuments, regardless of the local land development plan.[6] As indicated by the authors of a commentary on the law on the protection and care of monuments, the current definition of monument "permits public administration bodies to […] freely, or virtually arbitrarily, determine what is a monument and what is not, which causes the individuals or institutions affected by the resolution a lot of trouble. This definition only slightly narrows down the public interest criterion, which to our mind only adds to bureaucratic arbitrariness."[7]

The content of art. 6 para. 1 letter b and c implies that immovable monuments are subject to protection and care regardless of their state of preservation, in particular urban layouts as well as architectural works and buildings. In light of the current PCM, we cannot rule out that a work of architecture created in the time when copyright law was already applicable will be classified as a monument, or a work with respect to which economic copyrights have not expired yet. In this context, we need to mention that the first Polish law on copyright was the act of 29 March 1926 on copyright.[8] There is no doubt that architectural works qualified as such by virtue of that law still enjoy protection by means of moral rights which are inalienable and not limited in time. Due to the wording of art. 75 of the Polish act of 29 March 1926 on copyright, providing that "this statute applies also to authors' rights existing at the time of its entry into force. Now, however, because the duration of these rights – as specified by the former provisions – is not shortened, but prolonged only if the copyright is still exercised by the author or his heir," in some cases it may be legitimate to investigate whether any protection under copyright law still exists which was created before the entry of copyright law into force in 1926,

[5] Cf. A. Ginter and A. Michalak, *Ustawa o ochronie zabytków i opiece nad zabytkami. Komentarz* (Warsaw: Wolters Kluwer Polska), 2016, LEX, commentary on art. 3, margin number 5; cf. also the judgement of the Provincial Administrative Court in Kielce dated December 9, 2010, file ref. no. II SA/Ke 665/10, LEX no. 753336, in which it was argued that "if an object fulfils the criteria set out in art. 3 point 1 of the act of 2003 on the protection and care of monuments, it is a monument in the material sense, something that is implied by the properties of the object itself and the said provision of law, rather than those of an administrative decision."

[6] As the judgement of the Supreme Administrative Court dated July 6, 2011, file ref. no. II OSK 735/11, LEX no. 1083686, stipulates: "a decision to enter an object into the register of monuments is an administrative decision within the meaning of provisions of the Code of Administrative Procedure, and this decision has the characteristics of a constitutive decision, because the entry into the register results from it, and a particular object becomes subject to a legal form of conservation protection, which in turn restricts ownership rights of the keeper of this object (for example, by imposing the duty to obtain permits referred to in art. 36 of the said act of 2003)."

[7] Ginter and Michalak, *Ustawa o ochronie zabytków*, commentary on art. 3, margin number 8.

[8] Act of 29 March 1926 on copyright, Journal of Laws of 1935, No. 36, item 260.

in light of copyright law regulations applicable in the Polish territories governed by the partitioning powers. This analysis can be justified only in respect of the existence of moral rights created by the legislation of the partitioning states and upheld by the said art. 75 of the copyright act of 1926.[9] It should be highlighted that until the entry of the Polish law on copyright in 1926, the regions of the Russian partition still used the act of 8 March 1911.[10] This regulation did not contain legal norms shaping author's moral rights. As it was demonstrated in the literature, "Russian legislation of the period under discussion did not contain provisions regulating the question of author's moral rights. The notion of «moral rights» was alien to the doctrine of copyright in Russia."[11] From the above it can be inferred that author's moral rights emerged in the regions under the Russian rule (in force until today) when the Polish act on copyright law entered into force on March 29, 1926. Any analysis of protection of moral rights existing under copyright law with respect to works created before 1926 can be valid for the legislation of the partitioning states in force in the Polish territories, that is Austrian and Prussian laws.

As regards the question of economic copyrights which can be related to an architectural monument, the basic legal regulation in this respect is provided by art. 124 para. 1 of the current law on copyright and related rights, whereby the provisions of the current law are applied to: works classified as such after its entry into force; works with copyrights under the former law which have expired; and works with copyrights under the former law which have expired but are still protected under the current law, excluding the time between the expiration of protection under the previous law and the entry of the current law. The current copyright legislation, similarly to the previously applicable laws on copyright (the act of 29 March 1926 on copyright and the act of 10 July 1952 on copyright[12]), provides that the duration of economic copyrights should be computed from the date of the author's death or the death of the last of the co-authors; for a work whose author is unknown from the first date of distribution unless the pseudonym identifies the author's identity or if the author has revealed his or her identity; for a work whose economic copyrights are reserved to a person other than the author, from the first date of distribution, and if the work has not been distributed, from the date of its creation.

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[9] In this regard, compare E. Ferenc-Szydełko, "Prawo autorskie na ziemiach polskich do 1926 r.," *Zeszyty Naukowe Uniwersytetu Jagiellońskiego. Prace z Prawa Własności Intelektualnej* 75 (2000): 1–278.

[10] As announced in the Repository of Acts and Government Acts [Zbiór Praw i Rozporządzeń Rządowych] of 1911, No. 16, item 560.

[11] Ferenc-Szydełko, "Prawo autorskie na ziemiach," 105; see also J.J. Litauer, *Ustawodawstwo autorskie obowiązujące w Królestwie Polskiem* (Warsaw: Skł. Gł. w Księg. E. Wende i S-ka, 1916).

[12] Act of 10 July 1952 on copyright, Journal of Laws, No. 34, item 234.

The content of art. 36 of the currently applicable copyright law provides that the period of copyright protection is 70 years.[13] With the above remarks in mind, we will find it extremely hard to determine crucial dates of the period in which copyrighted architectural works may originate. The determination of economic copyrights always requires individual analysis of each case, dating of the work, and the examination of provisions applicable at the time of the author's death – all filtered through the content of art. 124 of the currently applicable copyright law.

AN ARCHITECTURAL PIECE AS A WORK

As observed by J. Jezioro, architectural pieces are interpreted similarly to works of art. They are important due to their aesthetic value seen in terms of means of expression that are typical for this category of works. Simultaneously, what distinguishes architectural pieces from other works of art is their utility value, apart from their aesthetic aspect.[14] The notion of architecture, in its broad sense, encompasses other related fields such as: land use planning (at the level of geographical and administrative regions), landscaping, urban science (the planning and design of residential areas and towns), interior design, the design of details, equipment, fixtures and movable equipment, both in enclosed and open spaces.[15] This broad interpretation of architectural work seems acceptable to the proponents of the doctrine of copyright law. J. Barta and R. Markiewicz claim that "sometimes specially isolated categories of architecture such as the so-called street furniture, interior design, and garden design are eligible for protection. Protection can cover not only customised or individual designs but also typical designs."[16]

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[13] With regard to the duration of protection under copyright laws previously applicable in Poland, see *Ochrona niematerialnego dziedzictwa*, 20.

[14] J. Jezioro, "Ochrona prawa do integralności utworu architektonicznego post mortem auctoris – wybrane zagadnienia," in *Non omnis moriar. Osobiste i majątkowe aspekty prawne śmierci człowieka. Zagadnienia wybrane*, ed. J. Gołaczyński et al. (Wrocław: Oficyna Prawnicza, 2015), 369; cf. also G. Świtek, *Gry sztuki z architekturą. Nowoczesne powinowactwa i współczesne integracje* (Toruń: Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika, 2013), 201ff.

[15] J. Goździkiewicz, "Utwór urbanistyczny i jego status w świetle Prawa autorskiego – wybrane zagadnienia," *Monitor Prawniczy* 12 (2006): 639.

[16] J. Barta and R. Markiewicz, „Rozdział II. Przedmiot prawa autorskiego," in *Prawo autorskie*, ed. J. Barta, vol. 13 of *System Prawa Prywatnego*, ed. Z. Radwański (Warsaw: Wydawnictwo C.H. Beck, Instytut Nauk Prawnych PAN, 2007), 26; cf. also E. Ferenc-Szydełko, "Prawo autorskie do utworów architektonicznego i architektoniczno-urbanistycznego w różnych formach jego wyrażenia," *Opolskie Studia Administracyjno-Prawne* 8 (2011), 139ff.

In a case heard by the Appeal Court in Kraków on June 18, 2003, it was concluded that "under the copyright law, only the aesthetic elements of an architectural work are subject to protection, not the functional elements of its structure."[17] In a case concerning a development plan for a town square, the Appeal Court observed that an argumentation invoking the notion of utility with respect to "an area of increased activity" (to be developed in compliance with the plan), cannot justify any claims to enforce copyright protection with respect to an architectural work.

The Copyright Act uses the terms: architectural work, urban design work,[18] and architectural and urban planning work (art. 1 para. 2 point 6 CA). These designations, as it seems, can be applied with respect to already existing structures and decorated interiors, gardens, spaces and their designs, plans, outlines, drawings, mock-ups, etc.[19] The notion of an architectural work has been defined by the doctrine using very diverse terms. A. Kopff took this notion to mean an arrangement of spatial elements, created from a building material.[20] J. Goździkiewicz concluded that an architectural work is represented by "an intangible asset which has a creatively developed spatial concept, in any form, where spatial concept denotes a spatial arrangement of elements of objective reality. The notion of an architectural work thus conceived (a architectural work in the broad sense) encompasses any works representing spatial arrangements, namely: architectural works in the strict sense, urban planning works, and works of interior design."[21] In his definition of the notion, K.J. Piórecki interprets it as an intangible entity whose basic aspect is a vision of land development. A work of this kind can have the form a conceptual, architectural-construction, or a detailed design, or an object built according to it.[22] According to J. Jezioro, architectural works are characteristic in that they can be

[17] File ref. no. I ACa 510/03, in *Transformacje Prawa Prywatnego*, nos. 1–2 (2004), item 143.

[18] J. Goździkiewicz defines an urban science as "the ability to build towns and consciously manage their development, or as the science of the establishment, historical development as well as planning and construction rules of towns [...]. To define the essence of urban science it would be useful, particularly in the context of legal analysis, distinguish between urban design (*Städttebar*) and urban planning (*Stadtplanung*). The advocates of this view conceive urban planning as activities related to the development of space in the social, economic and environmental (ecological) spheres, whereas urban design is treated as activities involving the use of material assets and related to the division of land and the shaping of public and private space by managing areas with buildings, installations and greenery. It is to be assumed, then, that only the second application of the term will have creative qualities." cf. Goździewicz, "Utwór urbanistyczny," 639ff.

[19] Similarly in J. Barta and R. Markiewicz, "Rozdział II. Przedmiot prawa autorskiego," 26.

[20] A. Kopff, "Utwór architektoniczny i jego autorstwo," *Nowe Prawo* 9 (1970): 74ff.

[21] Goździewicz, "Utwór urbanistyczny," 639.

[22] K.J. Piórecki, "Prawa autorskie uczestników procesu inwestycyjno-budowlanego," *Zeszyty Naukowe Uniwersytetu Jagiellońskiego. Prace z Prawa Własności Intelektualnej* 2 (2011): 40ff.

perceived as the result of synthesis of the creative collective activity (engineers, artists, architects), the final shape of which is imposed by the architect creating an architectural work. In this case, an architectural work, similarly to, for example, an audio-visual work, is born out of the fusion of different artistic contributions under the supervision of an architect, who imposes the final layout and scope.[23] E. Traple remarked that although an architectural design contract is a typical contract for a future work, the main problems with its interpretation concern the extent to which authors of structural and installation designs can be qualified as co-authors of an architectural work. She concluded: "An architectural concept is the earliest stage, and it constitutes a separate work protected by copyright. On the basis of the concept, an architectural design is developed, and then the structural and installation designs follow. An architectural design is a development of an architectural concept and constitutes a point of departure for a structural design. […] Installation designs related to heating systems, gas, water/sewage, computer networks, alarm systems, or lighting are often treated as separate works as long as they bear the personal touch of their author."[24]

As rightly pointed out by K. Dacyl-Kwilosz, architectural works are related to other works, painted pieces or sculptures, which in accordance with their function and the adopted definition of architectural work[25] can be treated as integral part of an architectural work or its elements which can be independently copyrighted and their legal protection should distinguished from the protection of an architectural work in the strict sense.

In practice, it can be very important to distinguish between contracts for the creation or restoration of an architectural work and contracts for design documentation necessary to build or renovate a building. Characteristically, contracts for design work have a mixed character. Apart from drawing architectural plans, a contractor usually assumes a range of tasks leading to the granting of a work permit and execution of the whole project. Therefore, we do not speak of only an architectural work accompanied by relevant installation plans, but also steps take to obtain all kinds of permits, arrangements, geodesic and/or geological documentation, etc. "The mixed

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[23] J. Jezioro, "Wybrane zagadnienia dotyczące pojęcia utworów architektonicznych," *Acta Universitatis Wratislaviensis* 3161 (2009): 198; see also Idem, "Utwór architektoniczny – próby zdefiniowania pojęcia prawnego," *Zeszyty Naukowe Prawa Własności Intelektualnej Uniwersytetu Śląskiego* 2 (2014): 42ff.

[24] E. Traple, *Umowy o eksploatację utworów w prawie polskim* (Warsaw: Wolters Kluwer Polska, 2010), LEX/el., chap. 8, point 12.1.

[25] K. Dacyl-Kwilosz, "Status prawnoautorski obiektu architektonicznego," *Zeszyty Naukowe Uniwersytetu Jagiellońskiego. Prace z Prawa Własności Intelektualnej* 128 (2015): 97.

character of a contract for design work implies that tasks closely connected with an order for future work will be covered by provisions of the Copyright Act, while the general provisions of the Civil Code related to the performance of obligations will apply to other tasks.[26]

Both the way an architectural work is interpreted and the scope of its definition will have a fundamental significance for the practice of law. This issue will determine situations in which special provisions of the Copyright Act will need to be applied with respect to architectural works (cf. art. 23 para. 1 sentence 2, art. 56 para. 4, art. 57 para. 3, art. 60 para. 5, art. 61). Some doubts may arise in respect of the mutual relationship between the notions of architectural work and artistic work or the relationship between an architectural work and a scientific work.

THE USE OF COPYRIGHT LAW FOR ARCHITECTURAL MONUMENTS

The unique characteristics of the object of protection, represented by an architectural work, require that four main variants of legal protection which the copyright law may concern be distinguished. The following situations can be considered:

1) an architectural monument is protected by author's moral rights, and economic copyrights which have not expired yet;

2) an architectural monument whose economic copyrights have expired but author's moral rights are still in force;

3) an architectural monument was created at the time when the copyright law did not operate and neither its economic copyrights nor moral rights are protected;

4) an architectural monument was converted, extended or restored, which gave rise to copyright protection with respect to elements thus created (this protection may concern both moral rights and economic copyrights, or only moral rights).

In the first situation, when an architectural monument is protected just like any other work whose economic copyrights have not expired, it is necessary to apply the entirety of the Copyright Act with particular regard to those regulations which directly concern architectural works. Special attention should be paid to those regulations of the copyright law which apply in particular to the use of architectural works: these are, among others, art. 23 para. 1 sentence 2, pursuant to which the so-called permissible personal use does not allow one to build in accordance with somebody else's architectural work or architectural and urban planning work. With respect to contracts concerning architectural works, we need to note the content of

[26] Traple, *Umowy o eksploatację*, chap. 8, point 12.2.

art. 56 para. 4, which excludes the entitlement of the author of an architectural work to withdraw from the contract or terminate it in a manner referred to in art. 56 para. 1 due to vital creative interests. In Traple's opinion, "the legislator starts correctly by weighing up the interests of both parties, and assumes that with respect to these works [architectural works and architectural and urban planning works – G.T.] damage caused by interrupted use may be too high for the using party."[27] Art. 57 para. 3 excludes the creator's entitlement referred to in art. 57 paras. 1–2 to renounce or terminate a contract, or to claim damages for failing to disseminate the work within the agreed time limit. Art. 60 para. 5 excludes the right of author's supervision in situations determined by CA (art. 60 paras. 1–5) and makes reference to separate provisions of law. These separate provisions are regulations of the Construction Law.[28] Art. 20 para. 1 point 4 of the Construction Law implies that the exercise of author's supervision is one of the basic duties of the designer. The designer performs these activities when requested by the investor or a body of architectural control since pursuant art. 19 para. 1 of the Construction Law an authority of architectural and construction control, when issuing a decision to grant a building permit, can impose on the investor the obligation to appoint an investor's inspector as well as the duty to ensure author's supervision in cases justified by the high complexity of a particular structure or construction works, or by the predicted impact on the environment. On the one hand, a designer is obliged to verify the architectural and building design for its compliance with relevant provisions, for example whether or not the architectural design infringes the author's rights of third parties (art. 20 para. 2 of the Construction Law). On the other hand, the designer – acting on behalf of the author of this design – should carry out author's supervision. Author's supervision is defined by art. 20 para. 1 point 4 of the Construction Law, which provides that it belongs to the designer to verify the compliance of the building work with the design and to agree on all options to use alternative solutions submitted by the construction manager or investor's supervision inspector.

Art. 61 CA introduces the principle whereby the acquisition of a copy of an architectural design or an architectural and urban planning design from the author covers the right to use it. This provision can be seen as an exception to the general rule of the copyright law mentioned in art. 52 para. 1, according to which: "Unless the contract stipulates otherwise, the transfer of ownership of a copy of work shall not result in the transferring of the author's economic copyrights to such a work." In the case of a work represented by an architectural design or an architectural and urban

[27] Ibid., chap. 3, point 5.1.2.

[28] Act of 7 July 1994 (Construction Law), Journal of Laws of 2016, item 290 as amended.

planning design, the transfer of ownership of the medium of such a work creates an entitlement to a single use of the design, namely to build an object described in the design. It can be concluded that by means of this provision a presumption of making a licence agreement is attributed to the disposal of a design copy, thus permitting a single use of the work in terms of a construction process. Art. 65 of the Copyright Act implies that in the absence of an express clause mentioning a transfer of a right it is presumed that the author has granted a licence. Given the said legal norm, the disposal of a copy of an architectural design should be treated as the conclusion of a licence agreement rather than a transfer of economic copyrights.[29] In light of our observations, we could say that the necessity to apply the presumption of art. 66 paras. 1–2 to licensing agreements concluded by virtue of art. 61 (contracts resulting from the transformation of ownership) may have important consequences. This is so because the invoked norm implies that a licensing agreement entitles the acquirer to use the work for a period of five years in the territory of the state in which the licensee has his registered office unless stipulated otherwise in the agreement. When this time limit expires, the right acquired by virtue of the licensing agreement expires. Therefore, the said principle implies that the acquisition of a copy of an architectural design or an architectural and urban planning design will entitle the acquirer to build an object according to its specifications only for a period of five years. The construction of an object specified in the design after this time limit expires should be treated as unlawful interference with the economic copyrights of the architect. While examining the content of art. 61, E. Traple puts forward the following question. In view of the fact that an investor is interested in purchasing the complete design documentation, that is a ready design that would allow him to realise the project – not only the narrowly interpreted architectural design but also the structural design, installation documentation concerning heating, gas and water/sewage, computer networks, alarm systems, etc. – the provision of art. 61 should be interpreted in a way that the acquisition of many installation designs, including an architectural design from an entity representing multiple authors gives rise to the right to use this design for one object only. Also, a narrow, i.e. literal, interpretation of this provision is possible, which implies that the protection is limited merely to the copyright on an architectural design. In summary of her considerations, Traple proposes a legitimate, as I believe, interpretation of this provision, according to which "despite the legislator's use of the term «architectural design», the protective function of art. 61 of the copyright act should be extended over the whole building

[29] Similarly in Dacyl-Kwilosz, "Status prawnoautorski," 101–2.

documentation."[30] It also should be noted that an author who transfers economic copyrights to a work should have the possibility of copying and disseminating the design documentation, for example in trade magazines, or the possibility of making mock-ups or displaying the design during exhibitions. We should note that art. 33[5] of the copyright act ensures the option to use building drawings and designs but only for the purposes of reconstruction or repair works.

AN ARCHITECTURAL MONUMENT NO LONGER SUBJECT TO ECONOMIC RIGHTS PROTECTION BUT WITH MORAL RIGHTS STILL IN FORCE

When we examine the legal status of an architectural monument whose architectural copyrights have expired but the author's moral rights are still operative, the author's moral right to have the content and form of the work inviolable comes to the fore (art. 16 point 3 CA), which will be infringed if an architectural object is converted, extended or restored.[31] Traple makes a valid observation that "art. 61 of the Copyright Act creates no other entitlements than those mentioned in the this provision on the part of the ordering party or a purchaser of a ready design. Due to this, the investor may have substantial problems should he wish to alter the design or convert or extend the ready building afterwards."[32]

Upon the author's death, the moral rights, including the right of inviolability of the content and form of the work as well as its fair use, can be exercised by the author's spouse by virtue of art. 78 para. 2 CA, and if such does not exist, by descendants, parents, siblings or descendants of siblings, in that order. Unless the author has stipulated otherwise, the suit for the protection of moral rights can also be brought by an association of authors relevant for the type of creative activity or an organisation for collective copyright and related rights management, which used to manage the copyrights of the late author (art. 78 para. 4).

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[30] Traple, *Umowy o eksploatację*, chap. 8, point 12.1.

[31] Cf. J. Barta and R. Markiewicz, "Komentarz do art. 16", in J. Barta et al. *Prawo autorskie i prawa pokrewne*. *Komentarz*, 4th ed. (Kraków: Zakamycze, 2005), 237; J. Błeszyński, *Prawo autorskie*, 2nd ed. (Warsaw: Państwowe Wydawnictwo Naukowe, 1985), 122; M. Szaciński, "Zmiany w utworze naruszające prawo autora do integralności dzieła," *Palestra* 7 (1986): 40–46; L. Jaworski, "Znaczenie i zakres prawa do integralności utworu w polskim prawie autorskim," *Przegląd Ustawodawstwa Gospodarczego* 10 (1995): 21–28; K. Czub, *Prawa osobiste twórców dóbr niematerialnych. Zagadnienia konstrukcyjne* (Warsaw: Wydawnictwo C.H. Beck, 2011), 141ff.

[32] Traple, *Umowy o eksploatację*, chap. 8, point 12.1.

Protection against unlawful alteration of a work without the author's consent should be distinguished from the question of drafting and using adaptations of a work referred to art. 2 CA, and from the question of non-creative alterations of its elements within the meaning of the copyright law. In some situations, protection of personal interests related to architectural works which are not subject to copyright can be realised prior to the infringement by virtue of the general provisions of the Civil Code addressing personal interests (art. 23 and art. 24).[33]

As J. Błeszyński demonstrated, the main idea of the right of inviolability of the content and form of a work and its fair use is to guarantee the author "the exclusive right to determine the form in which the work will be published and disseminated."[34] A. Wojciechowska points out two aspects of the said law: the positive one, that is the possibility for the author to introduce modifications at any time, and the negative one involving the possibility of forbidding third parties to modify the work in any way without the author's consent.[35] The scope of permitted use of a work is further specified in art. 49 para. 1 CA: "If the contract does not specify the manner of the use of a work, it shall comply with the character and purpose of a work as well as accepted practice."

In line with the judgement of the Court of Appeal in Kraków dated 29 October 1997, "not every change to the content or form of a work infringes its integrity (art. 16 point 3 CA), only such a modification which «severs» or «weakens» the bond between the author with the work, removes or violates the bond between the work and the features that identify its creator. Minor modifications of the elements of the content and form, which do not undermine the attribution of the work, do not affect its the right of integrity."[36]

Increasingly, the literature indicates that the moral rights of authors referred to in art. 15 CA can be realised using financial terms. The rights, as J. Barta and R. Markiewicz rightly notice, especially in the case of architectural works, are mainly intended to safeguard financial interests, for example when consent is granted to alter and architectural work or exercise the author's moral rights after his or her death.[37] The hybrid character of entitlements provided by art. 16 is also recognised by other advocates of the doctrine. M. Poźniak-Niedzielska concludes that the ob-

[33] Cf. G. Tylec, "Dobra osobiste prawa cywilnego jako niezależna od prawa autorskiego podstawa ochrony interesów twórczych." *Monitor Prawniczy* 10 (2012): 526–33, and the literature cited therein.

[34] Błeszyński, *Prawo autorskie*, 121.

[35] "Treść osobistych praw autorskich," *Przegląd Ustawodawstwa Gospodarczego* 11 (1994): 16.

[36] File ref. no. I ACa 477/97. Quoted after: J. Barta and R. Markiewicz, *Prawo autorskie. Orzecznictwo i wyjaśnienia* (Warsaw: Dom Wydawniczy ABC, 2005), 1058–59.

[37] Barta and Markiewicz, *Prawo autorskie. Orzecznictwo i wyjaśnienia*, 40.

ligation to obtain the author's consent for other entities to use the author's personal rights (for example, permission to alter a work) sometimes causes that entitlements once regarded as personal are treated as mixed.[38]

The exercise of the right to have the content and form inviolable is subject to limitation pursuant to art. 49 para. 2 CA. This provision stipulates that "regardless whether or not a legal successor bought the entirety of the author's economic rights, he may not, without the author's consent, alter the work unless there is a clear necessity for such changes and the author has no justified reason to object to them. This concerns respectively works where the period of protection of the author's economic rights has elapsed." The literature of the subject indicates that this "necessity" occurs when, for example, it is necessary to correct obvious errors or omissions, or when a competent authority has not granted consent, which makes modifications necessary.[39] In the statement of grounds for the judgement dated December 11, 1981, it was indicated that "an author of a project realised in stages as a series of individual investment tasks which are approved in succession should allow for the possibility of a relevant authority not granting permission regarding a given stage of high buildings, thus calling for changes in the non-compliant design."[40]

As it was demonstrated in the literature: "Changes can be recognized as necessary also when their goal is to achieve the object of the contract, known by the designer. However, such alterations also require that the court take into consideration the justified interests of the author, for instance those related to his good name. Also, the court assesses the reasons for the changes in connection with the conversion."[41]

The literature is concerned whether consent to alterations has to given in respect of a specific alteration or it can be of general and abstract character. It seems that if an author's consent to alterations in a work is an element of the legal act granted to an entity using an architectural work, it should be assumed that the author grants consent to a normal use of the work, including alterations the scope of which is determined by a joint intention of the parties and by the object of the contract. In the case of architectural works and urban planning works, it is impossible to describe in detail what kind of changes, made even with the author's consent, will be of interest to an investor in the future. Any needs related to the changed purpose of a building, its functions, size and the application of new construction techniques interfering

[38] M. Poźniak-Niedzielska, J. Szczotka, and M. Mozgawa, *Prawo autorskie i prawa pokrewne. Zarys wykładu* (Bydgoszcz–Warszawa–Lublin: Oficyna Wydawnicza Branta, 2007), 50.

[39] Cf. judgement of the Supreme Court dated January 11, 1981, file ref. no. IV CR 193/81, LEX no. 8381.

[40] Ibid.

[41] Traple, *Umowy o eksploatację*, chap. 8, point 12.1.

with its aesthetic aspect can emerge only in the future, so it is virtually impossible to anticipate them all at the time when the contract is being concluded.

RESTORATION OF A MONUMENT IN LIGHT OF THE REGULATION OF COPYRIGHT LAW

Of particular interest to our analysis of the copyright law is the question described above in point 4, related to monument restoration and copyright protection of objects created in connection with this kind of activity. The analysis presented by J. Barta and R. Markiewicz suggests that with regard to the restoration of monuments, there is a host of various circumstances the majority of which can be investigated in terms of copyright protection. These authors agree by saying that "this sort of works can or even should be appraised in terms of copyright law, both in respect of protection of creative activity materialised as restoration work, and in respect of protection of creative activity expressed by the restored building."[42] The question of legal protection of creative activity associated with restoration may concern, for example, situations when the destroyed elements of a building are made anew and when this occurs in compliance with the surviving documentation, or when there is no documentation which would allow the recreation of former elements and the creation of new solutions "in the original style." In the extent just mentioned, the original substance of a monument can be supplemented with completely new, original solutions – created in compliance with certain aesthetic canons matching the aesthetics of the monument – which are subject copyright on general terms.[43] We can also speak of creative activity with respect to activities leading to the harmonisation of a restored building with the surrounding buildings.[44]

Whether or not the effects of monument restoration will be subject to independent copyright protection, there remains the question of crediting the authorship of the conducted works. The author of restoration works will always enjoy the right to label his or her artistic or scientific activity with their name and surname. This right results directly from the content of art. 23 CC, which mentions scientific and artistic creation as one of personal interests. It seems that the content of this provision imposes the obligation to credit the names of authors of monument restoration

[42] J. Barta and R. Markiewicz, "Problemy prawa autorskiego związane z rewaloryzacją zabytkowych budynków," *Kwartalnik Prawa Prywatnego* 3 (1993): 266.

[43] Cf. ibid., 267.

[44] Ibid., 266.

designs and names of their subcontractors (as long as their activity has an artistic character) in all sorts of albums and other publications where depictions of the restored object are presented.[45]

COPYRIGHT LAW AS AN INSTRUMENT FOR THE PROTECTION OF MONUMENTS STIPULATED AS THE GOAL OF THE ACT ON THE PROTECTION AND CARE OF MONUMENTS

As shown by the literature, from the statutory perspective, monument protection should be interpreted as the totality of activities undertaken with respect to monuments aimed at the preservation of their historical value. In my opinion, measures of this kind should be undertaken and realised also with the help of the legal regulation provided by the act on copyright and related rights. Therefore, I put forward a proposition that activities intended to protect monuments, undertaken by virtue of copyright law should be seen as one of the so-called unnamed forms of monument protection.[46]

Art. 4 PCM implies that bodies of public administration – while realising the goal set out in the law, that is monument protection (due to the material definition of monument contained in art. 3 PCM) – whether or not a specific monument had been entered in the register of monuments or in monument records, should take measures aimed at permanent preservation of monuments. With regard to monuments which have never been registered, the governing competences of the organs of administration are limited since the goals mentioned in art. 4 PCM can be achieved by means of provisions contained in the law on copyright and related rights.

Monuments which constitute works within the meaning of copyright law and are covered by legal protection – in the context of goals spelled out in art. 4 PCM – can be subject to, among others, claims related to protection of moral rights (art. 78 in

[45] A similar view was expressed in Barta and Markiewicz, "Problemy prawa autorskiego," 275.

[46] The conception saying that CA regulations should be seen in the context of the so-called unnamed forms of monument protection was originated by T. Sienkiewicz. This view was expressed by him in the context of consultation which I pursued at the research stage for this paper. For unnamed forms of monument protection, see T. Sienkiewicz, „Umowa o oddanie gruntu w użytkowanie wieczyste jako nienazwana forma ochrony zabytków," in *Wokół problematyki prawnej zabytków i rynku sztuki*, ed. A. Jagielska-Burduk and W. Szafrański, vol. 2 of *Kultura w praktyce. Zagadnienia prawne* (Poznań: Wydawnictwo Poznańskiego Towarzystwa Przyjaciół Nauk, 2013), 245ff.; Idem, "Układ urbanistyczny wpisany do rejestru zabytków jako nienazwana forma ochrony przyrody," in *Działalność gospodarcza na obszarach chronionych*, ed. R. Biskup et al. (Lublin: Wydawnictwo KUL, 2014), 285ff.

conjunction with art. 16 CA).[47] As we know, these claims, defined in art. 78 of the Copyright Act, are reserved primarily to the author. Upon the author's death, if he or she did not express another will, the spouse can bring a suit for the protection of the deceased author's moral rights, and if such does not exist, this can be done by descendants, parents, siblings, or descendants of siblings, in that order. Unless the author did not stipulate otherwise, the suit for the protection of moral rights can also be brought by an association of authors relevant for the type of creative activity or an organisation for collective copyright and related rights management, which used to manage the copyrights of the late author. In the context of art. 4 PCM and if the external form of a monument or its substance has been interfered with (art. 16 point 3 CA) consisting in, or example, unacceptable conversion, the changing of the décor or deterioration of its appearance, bodies of public administration are entitled to initiate a procedure to protect the author's rights referred to in the Copyright Act. These measures may consist in informing competent entities about the infringement. Information of this kind should reach entities which can legitimately enforce copyright claims pursuant art. 78 CA, in particular informing a collective management organisation which pursues statutory tasks of protecting the rights of authors of architectural works.[48] Currently, this kind of organisation is the Association of Polish Architects (Stowarzyszenie Architektów Polskich, SARP).[49] It is interesting to note that pursuant to art. 104 para. 3 CA, collective management organisations (represented by SARP) operate under the supervision of the minister competent for the matters of culture and protection of national heritage. It can be inferred from the content of the Act that the minister is to monitor collective management organisations for the proper realisation of their statutory tasks, including those related to the protection of the author's moral rights to ensure that monuments are integral,

[47] The position that monument protection must be realised in full respect of the author's moral rights seems to be supported by the proposition provided in the judgement of the Supreme Administrative Court dated December 20, 1993, file ref. no. I SA 1868/93, ONSA OZ 1997, No. 1, item 30: "The protection of a monument does not consist in banning any adaptation or conversion works. [...] These kind of works are permissible providing they do not alter the shape of the building, its style and characteristic features which determined its status as a monument."

[48] This type of activities pursued by associations unifying authors and having the status of organisations of collective management can be perceived in terms of social participation in monument protection.

[49] According to §7 of the SARP statute of December 12, 2015, the objectives of SARP are: 1) high quality of architecture, space and environment; 2) care of the proper status of the profession in view of its social and culture-forming importance; 3) architects' expertise and the protection of their moral rights; 4) fostering architectural creative activity and its protection; 5) integration of groups of architects. See http://www.sarp.org.pl/pliki/13_5683ce475f0a7-1-sarp_statut_2015-12-12.pdf [accessed June 19, 2017].

inviolable in their content and form, making sure that they are put to a fair use. This duty of copyright protection imposed on public administration bodies is in line with the norm of art. 4 PCM.

In contrast, it would be interesting to see whether a public authority, while acting upon art. 4 PCM, can invoke the content of the law on copyright and related rights in its resolution, and demand that interference in the substance of a monument, for example its outer aspect treated as an architectural work, be discontinued. Understandably, bodies of public authority are bound to act on the basis and within the limits of law (art. 7 in conjunction with art. 2 of the Polish Constitution and art. 6 and 7 of the Code of Administrative Procedure). In my opinion, the situation in which an authority refuses to undertake measures which will cause the copyright of the author or the legal successors to be violated, using specific provisions of copyright law, cannot be treated as the case of broken rule of law. The situation in which an authority takes an action of a sovereign character while invoking only the content of art. 4 PCM and provisions of the Copyright Act seems much more problematic. It seems, then, that explicit authorisation for the above is missing from the act on the protection and care of monuments.

It is worth noting that the regulation of the Minister of Culture and National Heritage of 14 October 2015 (no longer binding since May 26, 2017) on the manner of conducting conservation, restoration and construction works, and conservation, architectural and archaeological research and other activities related to a monument entered in the register of monuments, and archaeological research and monument exploration,[50] issued on the basis of delegation of art. 37 PCM, addresses issues associated with copyright protection merely in Appendix 1. The said fragment of the appendix to the regulation provides that with regard to movable monuments the "author of the monument" is to be credited (Appendix 1, item 4). It appears that the crediting of authorship, as indicated above, should entail a presumption resulting from art. 8 para. 2 CA, whereby "it shall be presumed that the author is the person whose name has been indicated as theauthor on copies of the work or whose authorship has been announced to the public in any other manner in connection with the dissemination of the work." The question of authorship is also referred to by art. 37 para. 4 point 3 PCM.

The said regulation was repealed and as yet there is no other regulation to fill its place. Looking at the content of the no longer operative regulation, we need to note that apart from the above-indicated case concerning the indication of authorship for

[50] Journal of Laws of 2015, item 1789. Regulation repealed on 26 May 2017 by art. 3 of the act of 10 July 2015 amending the law on the protection and care of monuments and the law on museums, Journal of Laws of 2016, item 1330.

a movable monument, the regulation was lacking in any references under copyright law. The content of the regulation would indicate, among others, formal requirements of various sorts which documentation on the protection or use of monuments should fulfil. None of the provisions of the regulation called for a determination whether an architectural work (monument) which specific documentation should refer to was subject to copyright protection and consequently a relevant permission was necessary to be able to interfere with the content of copyright. Likewise, no statement was required to declare that specific operations would not interfere with the content of other parties' copyright. The repealed regulation also implies that – apart from the above-mentioned protection of copyright for movable monuments – the legislator did not see any need for the protection of copyright with respect to works being monuments at the same time. It is to be hoped that this plain omission will be rectified in the content of the new regulation issued on the basis of art. 37 PCM.

1. CONCLUSION

As is apparent from the above-mentioned considerations, the law on copyright will be applied for many different situations associated with the use of architectural monuments. One of the more interesting issues is the competition between the public interest manifested by the unrestricted possibility of contacting and using a monument, which often constitutes a historical monument and a national asset, and the personal interests of authors (e.g. architects), whose intense intellectual effort deserves to be protected under the law. It is known that copyright protection is an instrument of the cultural policy of the State. Legal regulations in this respect should therefore create a reasonable balance between the personal interest of authors and public interest. Interpretation of the law on copyright should by no means restrict access of the public to products of culture, as otherwise the absence of copyright protection in this regard will not stimulate creativity. The lack of money-oriented exploitation of the intellectual efforts put into renovation or restoration works of monuments will not encourage active participation in this area. It is in general public interest to take care of cultural heritage and the proper condition of architectural monuments. The Author believes that the only path leading to the attainment of this goal is through decent remuneration of those who engage in this issue, so vital to the public. Regulations of the law on copyright will provide adequate protection, both of moral and economic rights if their interpretation – in the scope suggested above – properly addresses the competing interests of architects acting as authors and the rest of the public.

BIBLIOGRAPHY

Sources of law

Act of 29 March 1926 on copyright, Journal of Laws of 1935, No. 36, item 260.

Act of 10 July 1952 on copyright, Journal of Laws of 1952, No. 34, item 234 as amended.

Act of 23 April 1964 (Civil Code), Journal of Laws of 1952, No. 16, item 93 as amended.

Act of 4 February 1994 on copyright and related rights, Journal of Laws of 2016, item 666 as amended.

Act of 7 July 1994 (Construction Law), Journal of Laws of 2016, item 290 as amended.

Act of 23 July 2003 on the protection and care of monuments, Journal of Laws of 2014, item 1446 as amended.

Act of 10 July 2015 amending the law on the protection and care of monuments and the law on museums, Journal of Laws of 2016, item 1330.

Regulation of the Minister of Culture and National Heritage of 14 October 2015 on the manner of conducting conservation, restoration and construction works, and conservation, architectural and archaeological research and other activities related to a monument entered in the register of monuments, and archaeological research and monument exploration, Journal of Laws of 2015, item 1789.

Statute of the Association of Polish Architects of 12 December 2015. Accessed June 19, 2017. http://www.sarp.org.pl/pliki/13_5683ce475f0a7-1-sarp_statut_2015-12-12.pdf.

Case law

Judgement of the Supreme Court dated January 11, 1981, file ref. no. IV CR 193/81, LEX no. 8381.

Judgement of the Supreme Administrative Court dated December 20, 1993, file ref. no. I SA 1868/93, ONSA OZ 1997, no. 1, item 30.

Judgement of the Supreme Administrative Court dated July 6, 2011, file ref. no. II OSK 735/11, LEX no. 1083686.

Judgement of the Appeal Court in Kraków dated October 29, 1997, file ref. no. I ACa 477/97.

Judgement of the Appeal Court in Kraków dated June 18, 2003, file ref. no. I ACa 510/03; *Transformacje Prawa Prywatnego* 1–2 (2004), item 143.

Judgement of the Provincial Administrative Court in Poznań dated September 15, 2010, file ref. no. IV SA/Po 428/10, LEX no. 758501.

Judgement of the Provincial Administrative Court in Kielce dated September 9, 2010, file ref. no. II SA/Ke 665/10, LEX no. 753336.

Literature

Barta, Janusz, and Ryszard Markiewicz. "Komentarz do art. 16." In *Prawo autorskie i prawa pokrewne. Komentarz*, by Janusz Barta, Monika Czajkowska-Dąbrowska, Zbigniew Ćwiąkalski, Ryszard Markiewicz, and Elżbieta Traple. 4th ed., 237–41. Kraków: Zakamycze, 2005.

Barta, Janusz, and Ryszard Markiewicz. *Prawo autorskie*. *Orzecznictwo i wyjaśnienia*, vol. 3. Warsaw: Dom Wydawniczy ABC, 2005.

Barta, Janusz, and Ryszard Markiewicz. "Problemy prawa autorskiego związane z rewaloryzacją zabytkowych budynków." *Kwartalnik Prawa Prywatnego* 3 (1993): 265–89.

Barta, Janusz, and Ryszard Markiewicz. "Rozdział II. Przedmiot prawa autorskiego." In *Prawo autorskie*, edited by Janusz Barta. Vol. 13 of *System Prawa Prywatnego*, edited by Zbigniew Radwański. Warsaw: Wydawnictwo C.H. Beck, Instytut Nauk Prawnych PAN, 2007, 7–60.

Błeszyński, Jan. *Prawo autorskie*, 2nd ed. Warsaw: Państwowe Wydawnictwo Naukowe, 1985.

Czub, Krzysztof. *Prawa osobiste twórców dóbr niematerialnych*. *Zagadnienia konstrukcyjne*. Warsaw: Wydawnictwo C.H. Beck, 2011.

Dacyl-Kwilosz, Karolina. "Status prawnoautorski obiektu architektonicznego." *Zeszyty Naukowe Uniwersytetu Jagiellońskiego. Prace z Prawa Własności Intelektualnej* 128 (2015): 94–111.

Ferenc-Szydełko, Ewa. "Prawo autorskie do utworów architektonicznego i architektoniczno-urbanistycznego w różnych formach jego wyrażenia." *Opolskie Studia Administracyjno-Prawne* 8 (2011): 139–45.

Ferenc-Szydełko, Ewa. "Prawo autorskie na ziemiach polskich do 1926 r." *Zeszyty Naukowe Uniwersytetu Jagiellońskiego Prace z Prawa Własności Intelektualnej* 75 (2000): 1–278.

Ginter, Artur, and Anna Michalak. *Ustawa o ochronie zabytków i opiece nad zabytkami*. *Komentarz*. Warsaw: Wolters Kluwer Polska, 2016.

Goździewicz, Justyna. "Utwór urbanistyczny i jego status w świetle Prawa autorskiego – wybrane zagadnienia." *Monitor Prawniczy* 12 (2006): 639–44.

Jaworski, Lech. "Znaczenie i zakres prawa do integralności utworu w polskim prawie autorskim." *Przegląd Ustawodawstwa Gospodarczego* 10 (1995): 21–28.

Jezioro, Julian. "Ochrona prawa do integralności utworu architektonicznego post mortem auctoris – wybrane zagadnienia." In *Non omnis moriar*. *Osobiste i majątkowe aspekty prawne śmierci człowieka. Zagadnienia wybrane*, edited by Jacek Gołaczyński, Jacek Mazurkiewicz, Jarosław Turłukowski, and Daniel Karkut. Wrocław: Oficyna Prawnicza 2015, 363–80.

Jezioro, Julian. "Utwór architektoniczny – próby zdefiniowania pojęcia prawnego." *Zeszyty Naukowe Prawa Własności Intelektualnej Uniwersytetu Śląskiego* 2 (2014): 42–57.

Jezioro, Julian. "Wybrane zagadnienia dotyczące pojęcia utworów architektonicznych," *Acta Universitatis Wratislaviensis* 3161 (2009): 195–214.

Kopff, Andrzej. "Utwór architektoniczny i jego autorstwo." *Nowe Prawo* 9 (1970): 74–80.

Litauer, Jan Jakub. *Ustawodawstwo autorskie obowiązujące w Królestwie Polskiem*. Warsaw: Skł. Gł. w Księg. E. Wende i S-ka, 1916.

Ochrona niematerialnego dziedzictwa kulturalnego. Ed. Adrian Niewęgłowski and Maria Późniak-Niedzielska. Warsaw: Wolters Kluwer Polska, 2015.

Piórecki, Kacper Jan. "Prawa autorskie uczestników procesu inwestycyjno-budowlanego." *Zeszyty Naukowe Uniwersytetu Jagiellońskiego. Prace z Prawa Własności Intelektualnej* 2 (2011): 40–62.

Późniak-Niedzielska, Maria, Jerzy Szczotka, Marek Mozgawa. *Prawo autorskie i prawa pokrewne*. *Zarys wykładu*. Bydgoszcz–Warszawa–Lublin: Oficyna Wydawnicza Branta, 2007.

Sienkiewicz, Tomasz. "Umowa o oddanie gruntu w użytkowanie wieczyste jako nienazwana forma ochrony zabytków." In *Wokół problematyki prawnej zabytków i rynku sztuki*, edited by Alicja Jagielska-Burduk and Wojciech Szafrański. Vol. 2 of *Kultura w praktyce. Zagadnienia prawne*. Poznań: Poznań: Wydawnictwo Poznańskiego Towarzystwa Przyjaciół Nauk, 2013, 245–60.

Sienkiewicz, Tomasz. "Układ urbanistyczny wpisany do rejestru zabytków jako nienazwana forma ochrony przyrody." In *Działalność gospodarcza na obszarach chronionych*, edited by Rafał Biskup, Magdalena Pyter, Maciej Rudnicki, and Jacek Trzewik. Lublin: Wydawnictwo KUL, 2014, 285–302.

Szaciński, Marek. "Zmiany w utworze naruszające prawo autora do integralności dzieła." *Palestra* 7 (1986): 40–46.

Świtek, Gabriela. *Gry sztuki z architekturą*. *Nowoczesne powinowactwa i współczesne integracje*. Toruń: Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika, 2013.

Traple, Elżbieta. *Umowy o eksploatację utworów w prawie polskim*. Warsaw: Wolters Kluwer Polska, 2010.

Tylec, Grzegorz. "Dobra osobiste prawa cywilnego jako niezależna od prawa autorskiego podstawa ochrony interesów twórczych." *Monitor Prawniczy* 10 (2012): 526–33.

Wojciechowska, Anna. "Treść osobistych praw autorskich." *Przegląd Ustawodawstwa Gospodarczego* 11 (1994): 15–17.

UNNAMED FORMS OF PROTECTION FOR IMMOVABLE MONUMENTS CLASSIFIED AS ARCHITECTURAL WORKS AS IMPLIED BY THE ACT ON COPYRIGHT AND RELATED RIGHTS

Summary

This article addresses issues of legal protection for architectural works which qualify as monuments. The research problem is related to answering the question under what circumstances the regulation of the Copyright Act is applicable to architectural monuments. The Author presents the currently binding definitions of "monument" and "architectural work". Issues concerning the duration of protection for architectural works, with regard to both economic rights and moral rights, are investigated. Particular norms of the law on copyright work agreements related to architectural works, regulated by the Polish act on copyright and related rights. Specific legal problems are indicated with respect to the revaluation of historical architectural monuments which are no longer liable for copyright protection.

Key words: architecture; copyright; monument protection.

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