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CONSERVATION OF MUSEUM OBJECTS AS AN EMPLOYEE'S PIECE OF WORK AND AS AN OBJECT OF CIVIL LAW OBLIGATION

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Abstract: The paper contains analysis of the legal relationships that constitute the basis of museum objects' conservation. In the introductory part a brief presentation of the essence of conservation as a process always aimed at the object's good is contained. It is reminded that views on a creative effect of conservation projects have already been well rooted in the doctrine. The basic topic of considerations is the legal analysis of an Employment Contract and Civil Law Contract to conduct conservation. It is the two, analysed in the perspective of museum objects' conservation, that are of major importance for museum practice. Furthermore, employee's piece of work resulting from museum objects' conservation is analysed as a creative activity of individual nature. The specificity of a Contract to Conduct Conservation is presented, which has been qualified as a mixed contract, combining elements of a Specific-Task Contract and Deposit Contract.

Keywords: museum object's conservation, conservation creativity, employee's piece of work, mixed contract, contract to conduct conservation.

When thinking of conservation of museum exhibits we certainly hardly ever wonder what legal relationship should constitute grounds for its implementation. Meanwhile, this issue is of major importance for the proper safeguarding of the interest of the museum that owns the museum exhibits on which conservation is conducted. In museum practice conservation of museum objects can be performed as part of Employment Contract, namely by the specialists employed at the museum, or in compliance with a Civil Law Contract to Conduct Conservation.

Conservation of museum objects is understood as a set of measures and actions aimed at safeguarding the tangible structure of those assets which are carriers of non-tangible values, as well as actions meant to stop the processes of their destruction.[1] In the theory of conservation a distinction has been made between remedial and preventive conservation. The first is defined as the protection, strengthening of the matter, and its preservation by making it resistant to damaging factors. Meanwhile, preventive conservation is understood as preventing destruction processes by appropriate care, safe use, and educational activity.[2] In the process of conservation of great importance is so-called conservation planning conservation design.[3] What we read in the Venice Charter is that it is essential to the conservation of monuments that they be maintained on a permanent basis.[4] Meanwhile, Iwona Szmelter reminds

that the essence of conservation is maintaining the utmost respect for the monument's original substances and all of its tangible and non-tangible values.[5]

The importance of conservation cannot be overestimated. Without it, the preservation of cultural goods for future generations would in most cases be absolutely impossible. When talking of museum exhibits, conservation, too, is of key importance, since it constitutes one of the pillars of museum's mission. What is more, conservation of museum collections was made a statutory obligation of museums formulated by the Legislator explicitly in Art. 2.4 of the Act on Museums of 21 Nov. 1996[6] (thereafter AM). The present paper aims at a legal analysis of the Employment Contract and Civil Law Contract to conduct conservation. The goal of the analysis will be to reveal characteristic elements of the analysed contracts, which in turn, will lead to defining what provisions they should contain in order to properly safeguard the legal interests of museum as the owner of the museum exhibits.

Conservation of museum exhibits as creative activity of individual nature

The considerations searching for the legal grounds to perform conservation should be preceded by the question whether conservation of museum exhibits should be classified as creative activity of individual nature in the understanding of the Act on Copyright and Related Rights of 4 February 1994[7] (thereafter AC). The issue is not new, since it has already constituted the topic of doctrine's analysis. All we thus have to do is to refer to the existing detailed studies,[8] bearing in mind the fact that assessment should never be of general nature, but should always take into consideration circumstances of the specific case. However, one can agree with Wojciech Kowalski who emphasizes that: *Conservation consists in undertaking various, sometimes complicated actions, yet even assuming that these contain a certain number of non-creative measures of purely technical character, they all serve the accomplishment of one planned goal which is usually of unquestionably creative character. Since it is all about the implementation of a certain aesthetical concept, grounded in the earlier investigation of the object, allowing to optimally expose its values.* (…) *From the legal point of view, the entirety of these measures can be qualified as work, although each case has to be judged individually. What is decisive for the this judgment is the degree* (…) *of originality and individuality in conservator's efforts' outcome; at the same time, it seems that the most obvious assessment will be formulated in relation to the conservation of badly damaged items.*[9]

Conservation of museum objects as an element of Employment Contract

The legislator clearly distinguished between specialists performing tasks related to collections' preservation and conservation, including both non-movable and movable objects of tangible culture and nature (Art, 32.b.1.2 AM). In view of different qualifications and work experience, several conservation positions were listed (Art. 32b.2.1-5 AM). Performing conservation as part of the scope of duties under Employment Contract is of impact for the museum's legal situation, since creative effects of conservation efforts displaying individual nature can be qualified as employee's piece of work.[10] Thus the provisions of Art. 12 AC are applicable. However, it has to be remembered that the work to be considered employee's piece of work, has to be the result of employee's employment relationship. What is not regarded as employee's piece of work is the work created as a marginal result of performing employee's scope of duties, or in relation to temporary or place-related performing of work.[11] The created work must result from the employee's commitment to perform specifically defined work including creative duties in the understanding of the Act on Copyright.[12] The optimized solution allowing to dispel doubts is therefore a very precise formulation of the Employment Contract consisting in a detailed definition of the employee's scope of duties.[13] Thus provided all the legal conditions have been fulfilled, the status of the employee's piece of work is connected with the employer's title to obtain the author's economic right to the work.[14] The provisions of Art. 12.1 AC are, however, of relative validity, which means that the employer and employee may decide that the effect of the transfer of all the author's economic right to the work does not occur, and the rights in their entirety shall remain with the employee – author. Such a decision would obviously not benefit the museum – employer, but from the legal point of view is entirely acceptable. However, unless otherwise stipulated, that is, unless the Employment Contract has some provisions related to author's economic rights to the work the employee is to create, author's economic rights upon receiving the work are in compliance with the Act's provisions transferred to the employer (Art.12.1 AC). It has to be emphasized that the Employment Contract does not stipulate the transfer of author's economic rights to the employee's piece of work.[15] The title to acquire these results exclusively from the Act (Art. 12.1 AC).[16] However, the provisions of Art. 12.1 AC are not applicable if stipulated otherwise by the Act.[17] The analysed provisions are decisive for employer's acquiring the author's economic rights to the employee's piece of work only within the limits resulting from the purpose of the Employment Contract and the congruent intention of the parties. Therefore it is recommendable to include detailed decisions as for the purpose of the contract and the congruent intention of the parties in the Employment Contract. This can be achieved through identification of the fields of exploitation in which the employer may acquire author's economic rights to conservation work in the Employment Contract. If this is missing in the Contract, it is assumed that of decisive importance is, first of all, the range of employer's activity and the work's purpose.[18] Following these criteria with respect to conserved museum exhibits it should be assumed that unless the parties stipulate otherwise, it will be the museum as the employer who will acquire all the author's economic rights to the work being a result of conservation work in all the fields of exploitation existing on the date of signing the Contract. Such a position is justified by the purpose of a conservation work which is incorporated into an already existing object owned by the employer – museum. A similar attitude was presented with respect to works in the form of photographs of museum

objects.[19] However, the acquisition of the author's economic rights by the employer to the employee's piece of work does not occur automatically. The constitutive element of the rights' acquisition is the acceptance of the work by the employer. It is only with this act that the legal result is put in effect (Art. 12.1 AC): the employer acquires author's rights to the employee's work. The principles for accepting employee's work by the employer are in detail provided for in Art.13 AC. The Legislator provides that within 6 months of the delivery of the work, or within another time limit agreed by the parties, the employer has enough time to become acquainted with the work and decide whether he/she accepts it without any objections, or conditions the acceptance upon making specific changes in the work, or whether he/she decides to reject the work. If beyond this statutory or contractual time limit the employer fails to notify the employee, it shall be considered that the work has been accepted without objections in the form that it has been delivered. Furthermore, it has to be emphasized that conservation of museum exhibits is a special situation. This boils down to the fact that the result of the conservator's work is not an independent work, yet that it is fixed in the object that underwent conservation, which in its turn, constitutes a designatum of another work, created earlier. The object undergoing conservation is the property of the museum – employer. Finally then the object has to be given to the employer, and if the latter is not satisfied with the effect of the conservation that is the employee's creative activity, the employer may call on the employee to introduce specified changes to the work fixed in the object that has undergone conservation. If the process repeats itself, and no desired effect is achieved, it has to be said that the employer may assign the conservation to another employee or commission it from an external entity. In this analysed situation the refusal to accept the work by the employer will consist in the demand to restore the object's condition to its original one, namely before the conservation. Naturally, if such restoration under the given circumstances is possible.

In the case of the conservation of museum exhibits conducted on the grounds of Employment Contract, Art. 12.3 AC will not be applicable, since as has been ascertained earlier, in that case the object that undergoes conservation is always owned by the employer. Simply because the object in question is a museum object. There is no need to transfer the object's ownership to the employer, yet on the other hand let us emphasize that the employer never loses the ownership title. In this sense Art. 12.2 AC is not applicable as for the effect in the form of the return to the author of the ownership title to the object in which his/her work is fixed. Such is the effect foreseen by the Legislator in the event that the employer fails to disseminate the work within the statutory time limit of 2 years, or any other as agreed by the parties. As the employee – author was not the owner of the object in which the work was fixed in the first place, he/she cannot regain its ownership in compliance with the provisions of Art. 12.2 AC. From the point of view of the interest of the museum as the employer, it is justified to contractually exclude the effect as foreseen by the Legislator in Art. 12.2 AC.[20] The museum as the employer should not be additionally limited by the obligation to disseminate the conservation work incorporated into the museum object within a foreseen time limit. The decision about the dissemination date consisting in presenting the museum object to the public through including it either in the permanent or a temporary exhibition, should remain exclusively with the museum. The advisable solution for the museum is thus the exclusion from the Employment Contract of the effect of the return of the author's economic rights to the author (conservator) in the event of the museum (employer) failing to disseminate the work within the statutory time limit of 2 years from the works' acceptance. Additionally, it is worth remembering that the author's economic rights to the employee's piece of wok once acquired by the employer remain with him/her regardless of the termination or expiry of the Employment Contract following the period for which it was concluded.[21]

It has to be borne in mind that Art. 12 AC deals exclusively with the author's economic rights to employee's piece of work, and these are the only rights the employer can acquire. Meanwhile, author's moral rights protected by the unlimited in time and non-renounceable link of the author with the work always remain with the author. The employee – author cannot renounce these rights, neither can he/she transfer them to the employer.[22] This means that the museum is obliged to respect the author's moral rights of the conservator to the creative effects of his/her work fixed in the object undergoing conservation in every case. In compliance with the provisions of Art.16 AC, it is the museum's obligation to respect the author's moral rights in the following manner: to be the author of the work; to sign the work with the author's name or pseudonym, or to make it available to the public anonymously; to have the contents and form of the author's work inviolable and properly used; to decide on making the work available to the public for the first time; to control the manner of using the work. The author's right to deciding on making the work available to the public for the first time should not be confused with the earlier--analysed author's economic right to the work's dissemination within the time limit as stipulated in Art. 12.1 AC. The right to decide on making the work available to the public for the first time remains exclusively with the author – employee.[23]

Conservation of museum exhibits conducted on the grounds of civil law relationship

In practice, we will not always have to do with the conservation of museum exhibits conducted exclusively by specialists – conservators employed by the museum on Employment Contracts. The need for a not-routine conservation procedure, or simply lack of conservation laboratory within the museum's structure may cause the need to search for specialists from outside the museum. In view of the above, it is important to say how to qualify the Contract to Conduct Conservation in such a case, and how to shape the legal relation connecting the museum with the conservator in order to best protect the museum's interest. When asking the question about the legal category of the contract to conduct object's conservation, we are tempted to respond that it should be Specific Work Contract. Meanwhile, a more thorough analysis reveals that essential matter elements of the Specific Work Contract do

not exhaust the essential matter elements of a contract to conduct conservation. In other words, a Contract to Conduct Conservation means that although it includes elements of essential matter that are identical as in the Specific Work Contract, it also features elements whose essential matter is characteristic of a Safekeeping Contract. This results from the fact that the contracted service consists in conducting conservation of an existing work. Thus the ordering party provides the contracted party not with materials necessary to correctly produce a work, but with an already existing work which will be subject to conservation. This matters in as much as the object of performance of the analysed contract are conservation services meant to improve the condition of the object submitted for conservation, not its deterioration. Thus the subject of the analysed contract, apart from providing services of conservation is at the same time performance of care of the thing submitted for conservation by the contracted party, and keeping it in a non-deteriorated condition with respect to that which it manifested when delivered to the contracted party. In view of the above, the Contract to Conduct Conservation of a museum object is not a typical Specific Work Contract, but is of mixed nature, combining elements of a Specific Work Contract with a Safekeeping Contract.[24]

To sum up, qualifying the contract to conduct object's conservation as a mixed contract means that the provisions of the Act on Civil Code of 23 April 1964[25] (thereafter CC) regulating the Specific Work Contract (Art. 627 ff CC) and Safekeeping Contract (Art. 835 ff CC) are applicable. This is extremely important, since the legal qualification of the Contract to Conduct Conservation of museum objects explicitly determines the legal relationship between the museum and conservator as an outside person who is not a museum employee. It can thus be said that through the Contract to Conduct Conservation of a thing (museum object) the contracted conservator commits him/herself to keep the thing given to him/her for conservation in a non-deteriorated way to perform its conservation. This is of major importance for museum practice, since the museum which owns the museum objects given for conservation, can require the conservator to preserve the museum objects in an at least non-deteriorated condition and to perform their conservation, thus to improve their condition, and both requirements are legally protected.

The Contract to Conduct Conservation of a museum object should be qualified as a real contract. The legal relationship resulting from it is established through a unanimous declaration of will of the parties and handing over the work meant to undergo conservation to the conservator. Importantly, the above applies to all museum objects, which, as is known in compliance with Art. 21.1 AC, can be both movable and immovable items, and which are museum's property and have been recorded in the inventory of museum objects. In the case that museum objects are movable items the handing over for conservation seems obvious. However, let us bear in mind that with respect to museum objects which are immovable and also undergo conservation, the Contract to Conduct Conservation shall not be concluded with legal effects until the things (immovable or movable items) are given to the entity which will conduct conservation. Sometimes, conservation does not apply to the whole immovable object, but just to its part. In the latter case the handing over the thing has to be understood as giving this part of the immovable object for him/her to perform conservation works that are contracted.

The common feature of both Specific Work and Safekeeping Contracts, unquestionably differing them from the Contract to Conduct Conservation of museum exhibits is the fact that neither of the first two rank among subject-qualified contracts. This means that in the Specific Work Contract the contracted party does not have to be a professional.[26] In the Safekeeping Contract there are no specific stipulations related to the contract parties: it can be concluded both with professionals or natural persons who do not carry out economic activity.[27] The situation is different with the Contract to Conduct Conservation of museum objects which can be concluded exclusively with subjects who have necessary qualifications, knowledge, skills, and experience in performing conservation works, thus exclusively with professionals. In the latter contract we therefore have to do with a professional and objective model of due diligence.[28]

The fact of qualifying this contract as a mixed one, combining elements of the Specific Work Contract and Safekeeping Contract has serious consequences in the sphere of the responsibility of the subject who accepts the museum objects for conservation. The object handed over to the conservator must not by identified with the material needed to execute a specific work, since the purpose is not to produce a museum object, but to conserve it, namely to execute a specific work within the range of the already existing object. The museum object handed over for conservation is essentially the thing without which conservator's piece of work could not be produced. In view of this, Art. 641.1 CC, stipulating that the risk of the accidental loss or damage to the material for the performance of a specific work is borne by the person who supplies the material, is not applicable to the contract that contains elements of both the Specific Work Contract and of the Safekeeping Contract. What is applicable instead is Art. 844.1 CC that the depositor may at any time demand that the thing given for safekeeping be returned. Failing by the depositor accepting the object for conservation to commit in this respect leads to responsibility defined in Art. 471 CC.[29]

An important aspect of the Contract to Conduct Conservation is also related to copyright issues. It has to be borne in mind that the effect of the transfer of the author's economic rights to the museum is applicable only to employee's piece of work in the form of fixed results of conservation works, and is not applicable in the situation when conservation is conducted on the grounds of a civil law contract: a contract to conduct conservation. In the latter case the museum should make sure that the author's economic rights to the produced work incorporated into the object undergoing conservation are acquired from the individual performing the conservation. Thus in the Contract to Conduct Conservation a provision has to be made that the conservator receiving the museum object for conservation, who is the authorized subject, fully and definitely transfers the author's economic rights to the work created as a result of conservation of the museum object in the fields of exploitation as pointed to in the contract in return for remuneration as specified in the contract (or free of charge). Meanwhile, as for the author's moral rights with respect to the work created as a result of conservation of the museum

object, the museum's legal position will be just the same as in the case of conservation having been performed by a museum employee, namely as under the Employment Contract and in concluding a civil law Contract to Conduct Conservation with an outside entity. In the case of the latter, the remarks made for the author's moral right to the work given in the part of the present paper related to conservation of museum exhibits under the Employment Contract are valid.

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The analyses presented in the paper do not exhaust the legal conditionings for conservation of museum objects which in practice can be conducted both under the Employment Contract and a civil law Contract to Conduct Conservation. The Author's intention, however, was not to deal with all the question-related issues, which in view of the present paper's format would be impossible, but to draw attention to the legal aspects of performing conservation on the grounds of two significantly different legal relationships. In the case of the conservation of museum objects performed under the Employment Contract what comes to the fore is unquestionably the issue of employee's piece of work. Thanks to the concluded Employment Contract, upon the fulfilment of all the statutory provisions, the museum does not need to be concerned about the transfer of the author's economic rights to the work produced as a result of conservation to the museum as the employer. At the same time the museum must not forget about the need to respect the author's moral rights to the work fixed in the object undergoing conservation, which are always with the conservator as the author. Meanwhile, in the civil law sphere it is qualifying the Contract to Conduct Conservation as a mixed one that allows to optimize the museum's position to formulate the provisions of the legal relationship with the conservator as an outside entity accepting museum objects for conservation.

Przypisy

[1] B. Rouba, *Proces ochrony dóbr kultury. Pojęcia, terminologia* [Process of the Preservation of Cultural Goods. Notions, Terminology] in: *Ars longa vita brevis – tradycyjne i nowoczesne badania dzieł sztuki* [*Ars Longa Vita Brevis*. Traditional and Modern Research into Works of Art.], Toruń 2003, p. 346 ff. In the study the author also presents definitions of many major concepts, such as: 1) restoration, 2) reconstruction, and 3) renovation. And so: 1) restoration: set of actions bringing out, preserving, restoring, or recreating artistic, aesthetic, and functional values of cultural goods; 2) reconstruction: faithful rebuilding, filling in losses, and recreating the damaged elements of a piece of cultural good (most often a historic monument, artwork) on the grounds of preserved fragments, records, documentation, also reconstruction of artistic, aesthetic, and functional values as well as of the historical context; 3) renovation, renewal: activity undertaken exclusively to enhance the aesthetic aspects of a piece of cultural good. Such actions are acceptable only when they do not damage any layer or element of the original work, and are not performed as replacement to the essential conservation measures, preserving and strengthening the matter of the cultural good.

[2] *Ibid*.

[3] *Ibid*.

[4] Art. 4 of the *International Charter for Conservation and Restoration of Monuments and* Sites adopted during the 2nd International Congress of Architects and Technicians of Historic Monuments in Venice in 1964 (Venice Charter).

[5] I. Szmelter, *Współczesna teoria konserwacji i restauracji dóbr kultury. Zarys zagadnień* [Contemporary Theory of Conservation and Restoration of Cultural Goods. Problem Outline], in: 'Ochrona Zabytków' 2006, No. 2, p. 25.

[6] Journal of Laws of 2019, Item 917, thereafter AM.

[7] Journal of Laws of 2018, Item 1191, with later amendments, thereafter AC.

[8] W. Kowalski, *Conservation of Works of Art under Polish Copyright Law, in: Art, Antiquity and Law 1999,* iss. 2, pp. 119-28; W. Kowalski, *Wartość zabytku a wartość adaptacji i modernizacji w świetle prawa autorskiego oraz prawa dziedzictwa kulturowego. Wzmocnienie ochrony czy konkurencja tych wartości?* [Value of Historic Monument versus Value of Adaptation in Modernizatin with Respect to Copyright Law and Cultural Heritage Law. Strengthening of the Protection or Rivalry of the Values?], in: *Ochrona wartości w procesie adaptacji zabytków* [Preservation of Values in the Process of Adaptation of Historic Monuments], B. Szmygin (ed.), PKN ICOMOS, Muzeum Pałacu Króla Jana III w Wilanowie, Politechnika Lubelska, Warszawa 2015, pp. 133-140; W. Kowalski, *Ograniczenia prawne zmiany estetyki zabytku w trakcie jego konserwacji i restauracji* [Legal Limitations to the Change of Aesthetic of Historic Monument in the Course of its Conservation and Restoration], in: *Wokół zagadnień estetyki zabytku po konserwacji i restauracji* [Around the Issues of Aesthetic of Historic Monument Following Its Conservation and Restoration], E. Szmit-Naud, B.J. Rouba, J. Arszyńska (ed.), NID, Toruń – Warszawa 2012, pp. 85-94.

[9] W. Kowalski, *Prawna problematyka konserwacji zabytków* [Legal Questions in Historic Monument Conservation], in: *Współczesne problemy teorii konserwatorskiej w Polsce* [Contemporary Problems of Conservation Theory in Poland], B. Szmygin (ed.), ICOMOS, Politechnika Lubelska, Warszawa – Lublin 2008, p. 60.

[10] More on the issue of employee's works in museums see: M. Drela, I. Gredka, *Prawo autorskie w działalności muzeów* [Copyright Law in Museum Activity], NIMOZ, Warszawa 2014, pp. 42-78; see also: E. Ferenc-Szydełko, *Podmiot prawa autorskiego* [Owner of Copyright], in: *Ustawa o prawie autorskim i prawach pokrewnych. Komentarz* [Act on Copyright and Related Rights. Commentary], E. Ferenc-Szydełko, J. Szyjewska-Bagińska, A. Drzewiecki, K. Gienas, S. Tomczyk (collective work), Warszawa 2011, p. 117; J. Barta, R. Markiewicz, *Prawo autorskie* [Copyright Law], Warszawa 2010, p. 77.

[11] E. Ferenc-Szydełko, Podmiot prawa..., pp. 117-18.

[12] See: ruling of the Court of Appeals in Warsaw of 12 Nov. 2008, I ACa 227/08, unpublished.

[13] M. Drela, I. Gredka, Prawo autorskie..., pp. 44-5.

[14] Art. 12 AC stipulates: *Unless this Act or contract of employment states otherwise, the employer whose employee has created a piece of work within the scope of his/her duties resulting from the employment relationship, shall upon the acceptance of the work acquire the author's economic rights within the limits resulting from the employment purpose of the contract and the congruent intentions of the parties.* Worth mentioning is the fact that the provisions of Art. 12 AC are of general character and apply to employee's pieces of work regardless of the domain of creativity in which the work is created. Furthermore, in the analysed stipulations the legislator did not introduce the limitation to only indefinite-period Employment Contracts, which means that this provision

is applicable to each Employment Contract; more on the topic see: M. Drela, I. Gredka, *Prawo autorskie*..., pp. 46-7.

[15] See Supreme Court ruling of 14 Feb. 2012, III UZP 4/11, OSNP 2012, Nos. 15-16, Item 198.

[16] Zob. A. Nowicka, *Podmiot prawa autorskiego* [Owner of Copyright], in: *System Prawa Prywatnego, Prawo autorskie* [System of Private Law. Copyright Law), Vol. 13, J. Barta (ed.), Warszawa 2013, pp. 108-9.

[17] Statutory exceptions to Art. 12 AC were introduced by the legislator in Art. 14 AC with respect to a scientific work and in Art. 74 AC with respect to computer programs; see: M. Drela, I. Gredka, *Prawo autorskie*..., p. 48.

[18] M. Drela, I. Gredka, *Ibid*. p. 49.

[19] J. Barta, R. Markiewicz, *Prawo autorskie*..., p. 76.

[20] This provision stipulates that if within 2 years of the work's acceptance the employer does not disseminate the work to be disseminated under such contract of employment, the author may fix in writing another time limit for the employer to disseminate the work with the effect that upon its expiry, the rights acquired by the employer together with the ownership of the object in which the work has been fixed, shall return to the author, unless the contract states otherwise. The parties may agree upon another time limit for starting the dissemination of the work.

[21] J. Barta, R. Markiewicz, *Prawo autorskie*..., p. 76.

[22] A. Nowicka, *Podmiot prawa*..., pp. 107-8.

[23] M. Drela, I. Gredka, *Prawo autorskie*..., p. 64.

[24] Compare: Supreme Court ruling of 25 Nov. 2004, V CK 235/04, source: Legalis [Accessed: 8 April 2019], see also: ruling of the Administrative Court in Warsaw of 26 March 2013, I ACa 1150/12, source: Legalis [Accessed: 8 April 2019].

[25] Journal of Laws of 2019, Item 80, thereafter CC.

[26] M. Gutowski, in: *Kodeks cywilny. Tom II. Komentarz. Art. 450-1088* [Civil Code. Volume II. Commentary. Arts. 450-1088], M. Gutowski (ed.), Wydawnictwo C. H. Beck, Warszawa 2016, p. 656.

[27] K. Zagrobelny in: *Kodeks cywilny*..., *ibid*., source: Legalis, [Accessed: 7 June 2019].

[28] M. Gutowski, w: *Kodeks cywilny*..., p. 656.

[29] See: ruling of the Administrative Court in Warsaw of 26 March 2013, I ACa 1150/12, source: Legalis [Accessed: 8 April 2019].

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