The Creativity of Artistic Appropriation and the Copyright
Gizela HORVÁTH
Department of Arts, Partium Christian University, Oradea, Romania
Email: horvath.gizela@partium.ro
ORCID: 0000-0002-7254-3704

Abstract
The purpose of copyright and authors’ rights as an institution is to stimulate artistic creativity. The idea of copyright is a product of modernity, and it is connected to a view on authorship standing at the base of the modern paradigm of art. This paradigm enables the creative genius to question the very foundation of the paradigm: the requirement of originality. Appropriation artists were the ones who went farthest in this direction. They appropriated, “copied” and “repeated” the works of other artists or transformed the objects of popular culture into artistic products. The practice of appropriation is problematic in visual arts from the perspective of copyright and authors’ rights. Does the appropriation artist “copy” legitimately or illegitimately? How can this question be handled in such a manner as not to violate the rights of the original artists, while also not limiting the artistic technique of appropriation, one of the most interesting areas of contemporary art? In my view, the framework of European authors’ rights is more appropriate for deciding on this issue than the American copyright system. The first point to be decided is whether the contested visual work is a creative or a non-creative appropriation. If it is creative – conveying a new message and centred on different issues than the appropriated work –, then it is not a copy, but a new artwork and the accusation of copyright violation is unfounded.

Keywords: artistic appropriation, copyright, authors’ rights, creativity, originality