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Copyright issues related to architecture and construction – the Polish perspective.

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Copyright in architecture - background image.

"1. The subject matter of copyright shall be every manifestation of creative activity of an individual nature, established in any form, irrespective of its value, purpose and expression (work).

2. In particular, the subject matter of copyright shall be: [...]

6) architectural works, architectural-urban planning works, and urban planning works;"

Act of 4 February 1994 on Copyright and Related Rights, article 1

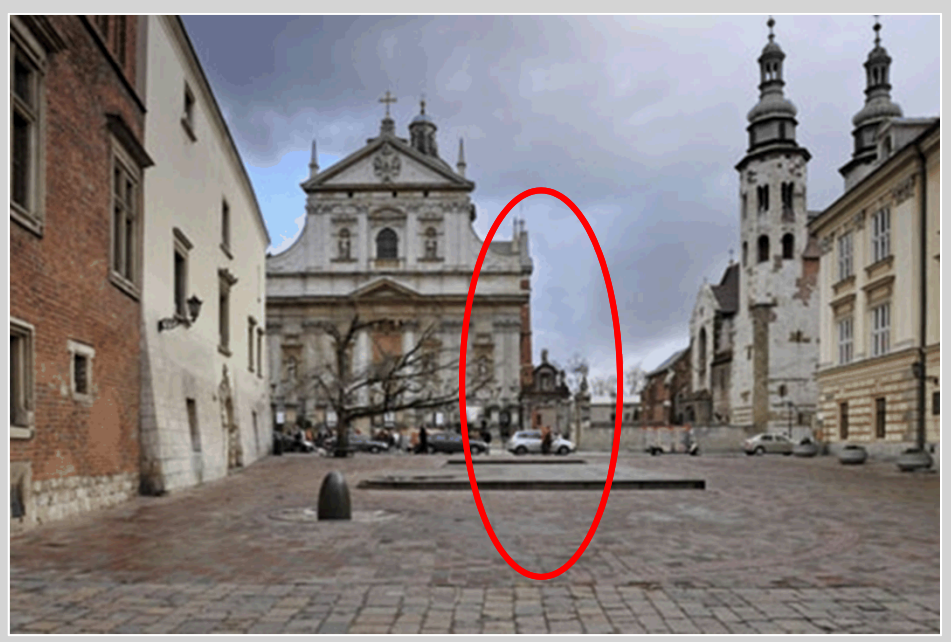
Polish case law on copyrightable architecture.

Case	Copyrightable object
District Court in Szczecin – 10 December 2015, Ref. No. VIII GC 196/15	An **architectural concept** and **executive design** are works
The Supreme Court – 5 March 1971, Ref. No. II CR 686/70	A **tombstone**, designed in a creative, individual and original way **is an architectural work**
Court of Appeal in Poznań – 7 November 2007, Ref. No. I ACa 800/07	**Graphics/ visualisation of a shop space** is a work
The Supreme Court – 30 June 2005, Ref. No. IV CK 763/04	A **mycological expertise** can be a work, as long as it is a result of creative activity and has an individual character
The Supreme Court – 11 December 1981, Ref. No. IV CR 193/81	A **conceptual architectural-urban design of a residential estate** is a work protected by copyright
Voivodship Administrative Court in Bydgoszcz – 25 November 2015, Ref. No. I SA/Bd 882/15	**Monument restoration services** are not only technical activities, but (may) have an individual and creative character

Only esthetical elements?

„only the aesthetical, not the functional, elements in architectural work are protected under copyright regulation"

Court of Appeal in Kraków – 18 June 2003, Ref. No. I ACa 510/03



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Architect vs. owner.

Architect	Building owner
Inalienable personal rights and transferable economic rights	No rights, unless specifically acquired, except for the right of single use for construction works based on design/copy ownership and certain statutory rights/fair use exceptions, such as the right to: > renovate and rebuild > use in court/administrative proceedings > use for education purposes
Unlimited right to amend a work	Only a limited right to amend because of obvious necessity and the absence of a just cause to object, i.e. in the case of: > technical drawbacks, including calculation errors > regulatory changes > business needs (?)

Freedom of panorama in Poland.

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Any questions?

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