

The answers to this questionnaire have been provided on behalf of:

Country: Czech Republic

by

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*Part I: General*

1. Does your national statute provide for a limited number of specific statutory limitations and exceptions, an open system of limitations and exceptions (such as fair use or fair dealing) or a mix of both systems?

Specific

Open

Mixed

Others, please describe: \_\_\_\_\_

2. Does your national statute include the three-step test as a general provision on copyright limitations and exceptions?

Yes

No

Partially, please describe: \_\_\_\_\_

3. Does your national statute provide limitations and exceptions as free uses (there is no need for authorization or for payment of remuneration)?

Yes

No

If yes, please describe: There is no need for authorization and for payment of remuneration in the following cases:

**Free Uses**

Article 30

(1) Not considered as exploitation of a work under this Act shall be its use for personal needs by a natural person without seeking to achieve direct or indirect economic benefit, unless otherwise specified herein.

**Licence for demonstration or repair of a equipment**

Article 30b

Copyright is not infringed by anybody who uses a work to the necessary extent in connection with the demonstration or repair of a equipment for a customer.

**Quotations**

#### Article 31

(1) Copyright is not infringed by anybody who:

- a) In his own work uses to a justified extent excerpts from works of other authors which were made public;
- b) Uses excerpts from a work, or small works in their entirety, for the purposes of critique or review related to such a work and for the purposes of scientific or technical work and such use being made to the extent complying with fair practices and required by the specific purpose;
- c) Uses the work while teaching for illustration purposes or during scientific research, without seeking to achieve direct or indirect economic or commercial advantage and without exceeding the extent adequate to the given purpose;

however, if possible, the name of the author, unless the work is an anonymous work, or the name of the person under whose name the work is being introduced in public and the title of the work and source, shall always be indicated, .

(2) Copyright shall likewise not be infringed by anybody who makes further use of excerpts from a work, or small works in their entirety, as referred to in Paragraph (1) (a) or (b); provisions of Paragraph (1) after the semicolon shall apply *mutatis mutandis*.

### **Promotion of Exhibition of Works of Art and Sale Thereof**

#### Article 32

(1) Copyright shall not be infringed by anybody, who for the purposes of promoting an exhibition or sale of originals or reproductions of works of art, uses such works to the extent necessary for the promotion of such an event and shall not use them in any other way for direct or indirect economic or commercial advantage. If usual, the

name of the author, unless the work is an anonymous work, or the name of the person under whose name the work is being introduced in public, the title of the work and source shall always be indicated.

(2) In accordance with Paragraph (1) above, the catalogue of the exhibited works may be used further.

### **Use of a Work Located in Public Place**

#### Article 33

(1) Copyright is not infringed by anybody who records or expresses by drawing, painting, graphic art, photography or film a work permanently located on a square, in a street, in a park, on a public route or in any other public place; copyright shall likewise not be infringed by anybody who further uses a work so expressed, rendered or recorded. If possible, the name of the author (unless the work is an anonymous work) or the name of the person under whose name the work is being introduced in public, the title of the work and its location shall be indicated.

(2) The provisions of Paragraph (1) shall not apply to making a reproduction or imitation of a work of architecture in the form of erecting a building and to the reproduction and distribution of a work in the form of a three-dimensional reproduction.

### **Official and Reporting Licence**

#### Article 34

Copyright is not infringed by anybody who uses:

- a) to a justifiable extent a work on the basis of law for purposes of public security, for court or administrative proceedings or for any other official purpose, or for parliamentary procedures and for taking minutes thereof;
- b) a work within the course of reporting on current events to an extent adequate to the informative purpose;
- c) to a justifiable extent, a work in periodical press or in broadcasting or in any other mass media providing the reporting on current political, economic or religious matters that have already been published via any other mass communication media – or the translation thereof; a work so borrowed or the translation thereof may also be used otherwise; however, a work may not be so borrowed or further used if such borrowing or further use is explicitly forbidden;

d) a political speech or passages of a public lecture or similar works, to an extent adequate to the informative purpose; this shall be without prejudice to the author's right to the use of such works in collection; in cases under b) to d), the name of the author (unless the work is an anonymous work) or the name of the person under whose name the work is being introduced in public, shall always be indicated; the title of the work and the source shall also be indicated, unless this is impossible in cases under b) and d).

### **Use of Work as Part of Civil and Religious Ceremonies or as Part of Official Events Organised by Public Authorities or during School Performances, and Use of School Work**

#### Article 35

(1) Copyright is not infringed by anybody who uses a work during civil or religious ceremonies or during official events organised by public authorities, provided that this is not done for the purpose of any direct or indirect economic or commercial advantage.

(2) Copyright is not infringed by anybody who uses a work during school performances performed exclusively by the pupils, students or teachers of the school or of the school-related or educational establishment, provided that this is not done for the purpose of any direct or indirect economic or commercial advantage.

(3) Copyright is not infringed by a school or school-related or educational establishment if they use for teaching purposes or to meet their own internal needs a work created by a pupil or student as a part of his school or educational assignments ensuing from his legal relationship to his school or the school-related or educational establishment (school work), provided that this is not done for the purpose of any direct or indirect economic or commercial advantage.

### **Limitation of Copyright to Collection of works**

#### Article 36

Copyright to a collection of works shall not be infringed by the legitimate user of the collection of works if he uses such work for the purposes of accessing its content and for the normal exploitation of its content.

### **Licence for Disabled**

#### Article 38

(1) Copyright is not infringed by anybody who:

a) exclusively for the benefit of people with disability and not for the purpose of direct or indirect economic or commercial advantage, makes a reproduction or has a reproduction made of a published work to the extent required by the specific disability; a reproduction so made may also be distributed and communicated by the same person, unless this is done for the purpose of direct or indirect economic or commercial advantage;

b) exclusively for the benefit of people with vision disability and not for the purpose of direct or indirect economic or commercial advantage, provides the verbal expression of the visual component and adds it to the audio component of an audiovisual recording of an audiovisual work; the audio component of the audiovisual recording of an audiovisual work may also be reproduced, distributed and communicated by the same person, unless this is done for the purpose of direct or indirect economic or commercial advantage.

(2) Copyright is not infringed by the person referred to in Article 37 (1), if the originals or reproductions of published works are lent to meet the needs of people with disability in connection with their disability.

### **Licences for temporary Reproductions**

#### Article 38a

(1) Copyright is not infringed by anybody who performs temporary acts of reproduction of works that are transient or incidental and represent an integral and essential part of a technological process which have no any independent economic significance, and whose sole purpose is to enable:

a) Transmission of the work by an intermediary between third parties through a computer network or any other similar network; or

b) Lawful use of the work.

(2) If the author grants permission, on a contractual basis, for the broadcasting of his work, his copyright shall not be infringed by the radio or television broadcaster that makes an ephemeral recording, using its own facilities for his own broadcasting.

### **Licence for Photographic Portrait**

Article 38b

Copyright is not infringed by anybody who makes a reproduction of a photographic work that is his own portrait and that he commissioned to be made for a consideration; a reproduction made in this way may also be used by the portrayed person for non-commercial purposes, unless such use is forbidden.

### **Incidental Use of a Work**

Article 38c

Copyright is not infringed by anybody who uses a work incidentally, in connection with an intended primary use of another work or element.

### **Licence to Works of Applied Art and Works of Architecture**

Article 38d

Copyright is not infringed by anybody (who):

- a) leases, lends or exhibits the original or reproduction of a work of applied art expressed in its applied form or an work of architecture expressed in the form of erecting a building;
- b) designs or executes to a necessary extent a change to a completed building in which an work of architecture is expressed, and provided that the value of such work is preserved; if justified by the importance of the work of architecture and if such a request may fairly be posed, such a person shall notify his intention in advance to the author and shall upon request provide the author with the documentation of the building, including pictures that show the state before the changes.

### **Use of an Original or a Reproduction of Work of Fine Arts or of a Photography or a Work Expressed in Manner Analogous to Photography by its exhibition**

Article 39

Copyright is not infringed by the owner of, or a person who borrows from the owner, the original or reproduction of a work of fine arts or of a photographic work or of a work produced by a process similar to photography, who exhibits such work or provides such work for exhibition free of charge, unless such use was banned by the author during the transfer of ownership to such an original or reproduction of the work, and the owner or borrower were aware of or must have been aware of the ban particularly because of the inscription of the ban in the register maintained for that purpose by the collective rights manager.

### **Licence for Performing Broadcast for health care and medical facilities**

Article 23

(...) Making the work so available to patients to whom health care is provided in health care and medical facilities shall also not be considered, (...), as performance of a broadcast work.

### **Licence for Retransmission of Broadcast via common house aerials**

Article 22

(...)

(3) Enabling reception of a simultaneous, unabridged and unaltered radio or television broadcast on the

receivers of the same building, or of adjacent buildings, which are functionally or spatially attached, via common house aerials, shall not be deemed as exploitation of the work, provided that only terrestrial unencoded analogue broadcasts can thus be received and that common reception is not used for the purposes of direct economic or commercial benefit.

4. Does your national statute include limitations and exceptions based on statutory licenses (direct permission granted by the law against remuneration)?

Yes

No

If yes, please describe:

Article 30a

**Reproduction on Paper or Other Similar Base**

(1) Copyright is not infringed by:

- a) a natural person who for its own personal use,
  - b) a legal person or a sole trader who for their own internal use,
  - c) anybody, who upon order, for personal use by a natural person,
  - d) anybody, who upon order, for a legal person's or a sole trader's own internal use
- makes a printed reproduction of a work on paper or other similar base by the photographic technique or by any other process with similar effects, except where a printed reproduction is made of the musical notation of a musical work or musical – dramatical work and where – in cases under Clauses (c) and (d) above – the remuneration is paid in a regular and timely manner in accordance with Article 25.
- (2) Provisions of Article 30 (4) to (6) shall apply *mutatis mutandis*.

Article 25

**Right to Remuneration in Connection with Reproduction of Work for Personal Use and for Legal Person's Own Internal Use**

(1) For works that were made public and may be reproduced:

- a) for personal use by a natural person or for the own internal use by a legal person or a sole trader (Articles 30 and 30a), using a device for making printed reproductions on paper or other similar base; or
- b) for personal use by a natural person (Article 30) on the basis of an audio, audiovisual or any other fixation or broadcasting by the transfer thereof by means of a device to blank record carriers, the author is entitled to remuneration in connection with such reproduction of the work.

(2) The person liable to pay remuneration pursuant to Paragraph (1) shall be:

- a) the producer of the devices for making reproductions of fixations, importer of such devices from third countries (hereinafter the "importer") or consignee of such devices from member states of the European Communities (hereinafter the "consignee");
- b) the producer, importer or consignee of technical devices for making printed reproductions;
- c) the producer, importer or consignee of blank record carriers;
- d) the carrier or forwarder *in lieu* of the liable person pursuant to Paragraphs (a) to (c), unless that person informed the relevant collective rights manager without undue delay upon written request about the details necessary for the identification of the importer, consignee or producer;
- e) the provider of paid reproduction services, in the case of printed reproductions; provider of paid reproduction services shall also mean the person who makes available, for a consideration, the device for making printed reproductions.

(3) Entitlement to remuneration to be paid by the persons defined in Paragraph (2) (a) to (d) in connection with the reproduction of a work for individual use shall pertain to the author at the time of the import, receiving or first sale of:

- a) Device for making reproductions of fixations;
- b) Device for making printed reproductions;
- c) Blank record carriers.

(4) Entitlement to the remuneration to be paid by the persons defined in Paragraph (2) (b) shall depend on the probable number of devices designated for making print reproductions of works under Article 30a. For the calculation of the amount of the remuneration in respect of the devices designated for making print reproductions, the probable number of these devices is set at 20 %. The remuneration is calculated on the basis of the average price of the device exclusive of the value added tax.

(5) Entitlement to the remuneration to be paid by the persons defined in Paragraph (2) (e) shall depend on the probable number of the print reproductions of works made in accordance with Article 30a. The rules set out in Points 6 and 7 of the Annex hereto shall apply to the calculation of remuneration in respect of the print reproductions made.

(6) The persons referred to in Paragraph (2) above shall submit to the relevant collective rights manager – always in summary for half of the calendar year and not later than by the end of the following calendar month – information on the facts relevant for setting the amount of the remuneration, including, but not limited to, information on the type and number of the sold, imported or received devices for making reproductions of fixations, devices for making printed reproductions, and the blank record carriers, and also on the total number of the printed reproductions made by the devices for providing paid reproduction services.

(7) The Ministry of Culture (hereinafter the “Ministry”) shall issue a Decree to define the types of devices to make print reproductions and the types of blank record carriers on which a remuneration is to be paid in accordance with Paragraph (1) above and also to define amount of the lump-sum remuneration depending on the type of device for making the printed reproductions and types of blank record carriers. This Decree shall also define types of devices for making reproductions of fixations on which a remuneration is to be paid in accordance with Paragraph (1) above; level of this remuneration is indicated in the Annex to this Act.

(8) Remuneration shall not be paid where the devices referred to in Paragraph (3) (a) and (b) are exported or consigned for resale or where blank record carriers are exported or consigned for resale. Also, remuneration shall not be paid in the case of devices and blank record carriers if these are intended only to be used within the Czech republic for the reproduction of works on the basis of licence agreements by persons who use them so in the course of their own activities.

#### Article 37

##### **Library Licence**

(1) Copyright is not infringed by a library, archive, museum, gallery, school, university and other non-profit school-related and educational establishment<sup>4)</sup>:

....

(2) Copyright is not infringed by a person referred to in Paragraph (1) above where such a person lends the originals or reproductions of published works, if the remuneration that is due to the authors from the person indicated in the Annex to this Act is paid in the amount also indicated in that Annex. The author shall not be entitled to the remuneration if the published works are lent hereunder on the no-takeaway basis or if the originals or reproductions of the published works are lent by school and university libraries, the National Library of the Czech Republic, the Moravian Land Library in Brno, the State Technical Library, National Medical Library, the Comenius National Pedagogical Library, Library of the Institute of Agricultural and Food Information, Library of the National Film Archive and the Library of the Parliament of the Czech Republic.

#### Article 72

##### **Compulsory Licence Granted for Consideration**

(1) The right of the performer shall not be infringed by anybody who uses the artistic performance fixed as a phonogram published for commercial purposes by radio or television broadcasting or by retransmitting the broadcast; the performer shall, however, be entitled to a remuneration for such use. This right may only be exercised by the performer through the relevant collective rights manager.

This provisions shall apply, *mutatis mutandis*, to the phonogram producer (according Art. 76 Par.3).

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<sup>4)</sup> Act No. 257/2001 on Libraries and on the Conditions of the Provision of Library and Information Services (the Library Act), as amended; Act No. 122/2000 on the Protection of Collections of Museum Nature and on Amendment to Certain Other Acts, as amended; Act No. 499/2004 on Archives and the Filing Service and on Amendment to Certain Other Acts, as amended; Act No. 561/2004 on Pre-school, Elementary, Secondary, Higher-level Professional and Other Education (the School Act), as amended; Act No. 111/1998 on Universities and on Amendment to Certain Other Acts (the University Act), as amended.

5. Does your national statute include limitations and exceptions based on compulsory licenses (obligation of the rights owners under the law to grant licenses against remuneration)?

- Yes  
 No

6. Does your national statute include specific limitations or exceptions permitting the use of copyrighted works for private or personal purposes, without previous authorization of the copyright or related rights owner?

- Yes  
 No

Please describe: Reproduction of Work for Personal Use and for Legal Person's Own Internal Use

Article 30  
**Free Uses**

- (1) Not considered as exploitation of a work under this Act shall be its use for personal needs by a natural person without seeking to achieve direct or indirect economic benefit, unless otherwise specified herein.
- (2) Copyright shall therefore not be infringed by anybody who for his own personal use makes a fixation, reproduction or imitation of a work.
- (3) Unless otherwise stipulated herein, use under this Act shall also cover the cases where a computer program or an electronic database is used to serve a natural person to meet his personal needs or a legal person or sole trader for their own internal use, including the making of reproductions of such works for such needs and uses; use under this Act shall likewise cover the cases where a reproduction or imitation of an work of architecture is made in the form of a building also to serve a natural person for his personal use or a legal person or sole trader for their own internal use (Article 30a) and where a fixation of an audiovisual work is made while it is performed from a fixation or during its transmission (Article 20) also to meet the personal needs of a natural person.
- (4) A reproduction or imitation of a work of fine arts made from a natural person's personal use in accordance with Paragraph (1) above shall always be visibly designated as such.
- (5) A reproduction made for personal use by a natural person in accordance with Paragraph (1) above may not be used for any purpose other than indicated therein.
- (6) The provision contained in Paragraph (1) shall be without prejudice to the provisions of Articles 25, 43 and 44.

Article 30a

**Reproduction on Paper or Other Similar Base**

- (1) Copyright is not infringed by:
- a) a natural person who for its own personal use,
  - b) a legal person or a sole trader who for their own internal use,
  - c) anybody, who upon order, for personal use by a natural person,
  - d) anybody, who upon order, for a legal person's or a sole trader's own internal use
- makes a printed reproduction of a work on paper or other similar base by the photographic technique or by any other process with similar effects, except where a printed reproduction is made of the musical notation of a musical work or musical – dramatical work and where – in cases under Clauses (c) and (d) above – the remuneration is paid in a regular and timely manner in accordance with Article 25.
- (2) Provisions of Article 30 (4) to (6) shall apply *mutatis mutandis*.

7. Does your national statute provide remuneration for private or personal uses (for instance, copyright levies)?

Yes

No

If yes, please describe: Remuneration in Connection with Reproduction of Work for Personal Use and for Legal Person's Own Internal Use (Copyright Levies)

Article 25 of Copyright Act:

**Right to Remuneration in Connection with Reproduction of Work for Personal Use and for Legal Person's Own Internal Use**

(1) For works that were made public and may be reproduced:

a) for personal use by a natural person or for the own internal use by a legal person or a sole trader (Articles 30 and 30a), using a device for making printed reproductions on paper or other similar base; or

b) for personal use by a natural person (Article 30) on the basis of an audio, audiovisual or any other fixation or broadcasting by the transfer thereof by means of a device to blank record carriers, the author is entitled to remuneration in connection with such reproduction of the work.

(2) The person liable to pay remuneration pursuant to Paragraph (1) shall be:

a) the producer of the devices for making reproductions of fixations, importer of such devices from third countries (hereinafter the "importer") or consignee of such devices from member states of the European Communities (hereinafter the "consignee");

b) the producer, importer or consignee of technical devices for making printed reproductions;

c) the producer, importer or consignee of blank record carriers;

d) the carrier or forwarder *in lieu* of the liable person pursuant to Paragraphs (a) to (c), unless that person informed the relevant collective rights manager without undue delay upon written request about the details necessary for the identification of the importer, consignee or producer;

e) the provider of paid reproduction services, in the case of printed reproductions; provider of paid reproduction services shall also mean the person who makes available, for a consideration, the device for making printed reproductions.

(3) Entitlement to remuneration to be paid by the persons defined in Paragraph (2) (a) to (d) in connection with the reproduction of a work for individual use shall pertain to the author at the time of the import, receiving or first sale of:

a) Device for making reproductions of fixations;

b) Device for making printed reproductions;

c) Blank record carriers.

(4) Entitlement to the remuneration to be paid by the persons defined in Paragraph (2) (b) shall depend on the probable number of devices designated for making print reproductions of works under Article 30a. For the calculation of the amount of the remuneration in respect of the devices designated for making print reproductions, the probable number of these devices is set at 20 %. The remuneration is calculated on the basis of the average price of the device exclusive of the value added tax.

(5) Entitlement to the remuneration to be paid by the persons defined in Paragraph (2) (e) shall depend on the probable number of the print reproductions of works made in accordance with Article 30a. The rules set out in Points 6 and 7 of the Annex hereto shall apply to the calculation of remuneration in respect of the print reproductions made.

(6) The persons referred to in Paragraph (2) above shall submit to the relevant collective rights manager – always in summary for half of the calendar year and not later than by the end of the following calendar month – information on the facts relevant for setting the amount of the remuneration, including, but not limited to, information on the type and number of the sold, imported or received devices for making reproductions of fixations, devices for making printed reproductions, and the blank record carriers, and also on the total number of the printed reproductions made by the devices for providing paid reproduction services.

(7) The Ministry of Culture (hereinafter the "Ministry") shall issue a Decree to define the types of devices to make print reproductions and the types of blank record carriers on which a remuneration is to be paid in accordance with Paragraph (1) above and also to define amount of the lump-sum remuneration depending on the type of device for making the printed reproductions and types of blank record carriers. This Decree shall also define types of devices for making reproductions of fixations on which a remuneration is to be paid in accordance with Paragraph (1) above; level of this remuneration is indicated in the Annex to this Act.

(8) Remuneration shall not be paid where the devices referred to in Paragraph (3) (a) and (b) are exported or consigned for resale or where blank record carriers are exported or consigned for resale. Also, remuneration shall



not be paid in the case of devices and blank record carriers if these are intended only to be used within the Czech republic for the reproduction of works on the basis of licence agreements by persons who use them so in the course of their own activities.

The regulation is also included in:

**Annex to Act No. 121/2000**

Tariffs of Remuneration for the Re-sale of an Original of a Work of Art and Tariffs Relating to the Reproduction of Works for Personal Use and to the Lending of Works

2. Persons referred to in Article 25 paragraph (2) Clause a) or Clause d), who are domiciled or permanently resident or, as the case may be, resident for not less than 183 days in the relevant calendar year, either continuously or in several periodical stays, in the territory of the Czech Republic, are obliged to pay remuneration twice annually to the relevant collective rights manager who is authorised pursuant to this Act to execute collective rights management within a scope that includes the collection of remuneration from such persons.

3. Lump sum remuneration due on the import or acceptance or first sale of technical devices designated for the making of reproductions of sound or audiovisual fixations shall be 3% of the selling price of the devices being sold, irrespective of whether such devices serve for the recording of merely sound, or merely image, or simultaneously sound and image, or any other recording. In the case of radio and television sets enabling to make a record of a broadcast, the remuneration shall be 1.5% of the selling price of the sets being sold.

4. Persons referred to in Article 25 Paragraph (2) Clause b), or Clause d), who are domiciled or permanently resident or, as the case may be, resident for at least 183 days in the calendar year, either continuously or in several periodical stays, in the territory of the Czech Republic, shall be obliged to pay remuneration twice annually to the relevant collective rights manager who is authorised pursuant to this Act to execute collective management within a scope that includes the collection of remuneration from such persons.

5. Persons referred to in Article 25 Paragraph (2) Clause e) shall be obliged to pay remuneration pursuant to Article 25 Paragraph (5) once a year to the relevant collective rights manager who is authorised in accordance with this Act to execute collective rights management within a scope including the collection of remuneration from such persons.

6. The remuneration for one print reproduction shall be:

- a) for a black-and-white reproduction CZK 0.20 per page
- b) for a coloured reproduction CZK 0.40 per page

7. The probable number of the print reproductions of works made by reproduction service providers shall be as follows:

- a) when made in the premises of libraries, museums, galleries, schools and other educational facilities: 70% of the total number of print reproductions made by the provider of paid reproduction services;
- b) when made in the premises of archives, government offices and offices of territorial selfgoverning units and in the premises of other reproduction service providers: 20% of the total number of print reproductions made by the provider of paid reproduction services

8. Persons referred to in Article 25 paragraph 2 Clause c) or Clause d), who have their registered office or place of business, or are domiciled, or permanently resident or, as the case may be, are resident for not less than 183 days in the relevant calendar year, either continuously or in several periodical stays, in the territory of the Czech Republic, shall be obliged to pay remuneration twice annually to the relevant collective rights manager who is authorised pursuant to this Act to execute collective rights management within a scope the at includes the collection of remuneration from such persons.

**DECREE**

**Dated October 16, 2006**

**defining types of devices for making reproductions, types of blank record carriers and the amount of lump-sum remuneration**

The Ministry of Culture, pursuant to the Article 25(7) of Act No. 121/2000 Collection of Laws (hereinafter referred to as "Coll."), governing the Copyright, the rights related to the Copyright and amending certain Acts (the Copyright Act), as amended by Act No. 216/2006 Coll., stipulates as follows:

**Types of devices for making print reproductions and amount of lump-sum remuneration**

#### Article 1

(1) The remuneration paid for inkjet printers capable of making printed reproductions from other than a printed base shall be, in case of printers sold for average prices (exclusive of VAT), as follows:

- a) up to CZK 2,000 (inclusive) CZK 45;
- b) from CZK 2,000 to CZK 6,000 CZK 120;
- c) from CZK 6,000 to CZK 10,000 CZK 240;
- d) from CZK 10,000 to CZK 20,000 CZK 450;
- e) in excess of CZK 20,000 CZK 900;

(2) The remuneration paid for other than inkjet printers capable of making printed reproductions from other than a printed base shall be, in case of printers sold for average prices (exclusive of VAT), as follows:

- a) up to CZK 5,000 (inclusive) CZK 120;
- b) from CZK 5,000 to CZK 10,000 CZK 225;
- c) from CZK 10,000 to CZK 20,000 CZK 450;
- d) from CZK 20,000 to CZK 40,000 CZK 900;
- e) from CZK 40,000 to CZK 70,000 CZK 1,650;
- f) from CZK 70,000 to CZK 100,000 CZK 2,560;
- g) from CZK 100,000 to CZK 150,000 CZK 3,570;
- h) from CZK 150,000 to CZK 200,000 CZK 5,250;
- i) in excess of CZK 200,000 CZK 6,750.

#### Article 2

The remuneration paid for copiers incapable of making any other than printed reproductions from a printed base shall be, in case of copiers sold for average prices (exclusive of VAT), as follows:

- a) up to CZK 2,500 (inclusive) CZK 120;
- b) from CZK 2,500 to CZK 5,000 CZK 240;
- c) from CZK 5,000 to CZK 10,000 CZK 450;
- d) from CZK 10,000 to CZK 20,000 CZK 900;
- e) from CZK 20,000 to CZK 40,000 CZK 1,800;
- f) from CZK 40,000 to CZK 70,000 CZK 3,300;
- g) from CZK 70,000 to CZK 100,000 CZK 5,100;
- h) from CZK 100,000 to CZK 150,000 CZK 7,500;
- i) from CZK 150,000 to CZK 200,000 CZK 10,500;
- j) in excess of CZK 200,000 CZK 13,500.

#### Article 3

In case of multifunctional devices capable of making printed reproductions in both ways as described in Article 1 and in Article 2, the remuneration paid for copiers described in Article 2 shall apply.

#### **Types of blank record carriers and amount of lump-sum remuneration**

#### Article 4

(1) The remuneration paid for blank analogue sound recording carriers shall be, in case of the following carriers, as follows:

- a) recording time up to 60 minutes CZK 1.50;
- b) recording time in excess of 60 minutes CZK 2.

(2) The remuneration paid for blank analogue audiovisual recording carriers shall be, in case of the following carriers, as follows:

- a) recording time up to 180 minutes CZK 3;
- b) recording time in excess of 180 minutes CZK 4.

#### Article 5

(1) The remuneration paid for the following types of blank optical carriers shall be as follows:

- a) CD of all formats, non-rewritable CZK 0.40;
- b) CD of all formats, rewritable CZK 2;
- c) DVD of all formats, non-rewritable CZK 1;
- d) DVD of all formats, rewritable CZK 5;
- e) mini-disks CZK 4.

(2) The remuneration paid for not embeddable data medium and data medium embedded or embeddable in a device, unless the remuneration for such data medium has been included in the remuneration paid for the device pursuant to Article 6, shall amount to CZK 6 per each, even incomplete, 512 MB of its capacity.

(3) The remuneration paid for hard disks not embeddable in personal computers shall amount to CZK 10 per each, even incomplete, 40 GB of its capacity.

Article 6

**Types of devices for making reproductions of recordings**

(1) Devices for making reproductions of recordings shall be:

- a) devices for making reproductions of recordings using a magnetic tape;
- b) devices for recording of data on optical carriers and memory cards not embeddable in personal computers;
- c) devices for recording of data on optical carriers embeddable in personal computers;
- d) devices for recording of data on optical carriers embedded in personal computers, unless the remuneration is paid pursuant to Article 6(1)(c);
- e) devices for making reproductions on an embedded hard disk or memory card;
- f) hard disks embeddable in personal computers;
- g) hard disks embedded in personal computers, unless the remuneration is paid pursuant to Article 6(1)(f);
- h) radio and television sets capable of recording their broadcasts.

(2) The provisions of paragraph 1 shall not apply to mobile telephones.

Article 7

All rates applicable to the remuneration according to this decree are stipulated exclusive of VAT.

8. Does your national statute allow parties to agree in licensing agreements or other binding contracts not to engage in conduct that would otherwise be permitted under the national statute's exceptions and limitations?

Yes

No

If yes, please describe:

In general, it is impossible to agree in licensing agreements or other binding contracts not to engage in conduct that would otherwise be permitted under the national statute's exceptions and limitations. However, there are some exceptions, see:

Article 34

**Official and Reporting Licences**

Copyright is not infringed by anybody who uses:

(...)

- c) to a justifiable extent, a work in periodical press or in broadcasting or in any other mass media providing the reporting on current political, economic or religious matters that have already been published via any other mass communication media – or the translation thereof; a work so borrowed or the translation thereof may also be used otherwise; however, a work may not be so borrowed or further used if such borrowing or further use is explicitly forbidden; (...)

Article 39

**Use of an Original or a Reproduction of Work of Fine Arts or of a Photography or a Work Expressed in Manner Analogous to Photography by its exhibition**

Copyright is not infringed by the owner of, or a person who borrows from the owner, the original or reproduction of a work of fine arts or of a photographic work or of a work produced by a process similar to photography, who exhibits such work or provides such work for exhibition free of charge, unless such use was banned by the author during the transfer of ownership to such an original or reproduction of the work, and the owner or borrower were aware of or must have been aware of the ban particularly because of the inscription of the ban in the register maintained for that purpose by the collective rights manager.

Article 38b

**Licence for Photographic Portrait**

Copyright is not infringed by anybody who makes a reproduction of a photographic work that is his own portrait and that he commissioned to be made for a consideration; a reproduction made in this way may also be used by the portrayed person for non-commercial purposes, unless such use is forbidden.

Article 66

**Limitation of Scope of Author's Rights to Computer Program**

(1) Copyright is not infringed by a lawful user of a computer program reproduction, if he:

(...)

b) otherwise reproduces, translates, adapts, arranges or alters in any other way a computer program if necessary for the utilisation of a lawfully acquired computer program in accordance with its purpose, unless otherwise agreed;(…)

9. Does your national statute subject the exercise of limitations and exceptions to the condition of a lawful or authorized source requirement (for instance, that copies are made from a lawful source)?

Yes

No

If yes, please describe: However, some of the exceptions shall only apply to works that have been made public (legaly).

Art. 29 Par. 3

Free uses and statutory licences, except official and reporting licences (Article 34), licence for a school work (Article 35 Paragraph 3), licence for temporary reproductions (Article 38a), licence pro photographic portrait (Article 38b) and licence for immaterial accessory use of the work (Article 38c), shall only apply to works that have been made public.

10. Does your national statute protect technological measures?

Yes

No

11. Does your national statute protect rights management information?

Yes

No

12. Does your national statute provide specific mechanisms to ensure that limitations or exceptions continue to apply despite the existence of any technological measures implemented by the copyright or related rights owners?

Yes

No

If yes, please describe: An author who used technical measures in respect of his work shall make his work available to lawful users to the extent necessary to fulfil the purpose of the

stated exploitation of the work in the sense of regulation of limitation and exception in the Copyright Act. (see Art. 43 Par.. 4)

13. If recourse to legal proceedings is needed, what is the average time to ensure the exercise of limitations and exceptions if some type of technological measures of protection is applied by copyright and related rights owners?

Please describe: \_\_\_\_\_

14. Does your national statute provide that certain limitations or exceptions prevail over the prohibitions on the act of circumventing technological protection measures or rights management information?

- Yes  
 No

If yes, please describe:

15. If recourse to legal proceedings is needed regarding limitations and exceptions, what is the average time needed to resolve a dispute regarding the prohibition of circumventing the technological measures of protection and digital rights management?

Please describe: \_\_\_\_\_

16. Does your national statute include limitations and exceptions especially for the use of computer programs?

- Yes  
 No

Please describe: see Art. 66 of Copyright Act:

**Limitation of Scope of Author's Rights to Computer Program**

(1) Copyright is not infringed by a lawful user of a computer program reproduction, if he:

- a) reproduces, translates, adapts, arranges or otherwise alters the computer program if necessary for the utilisation of a lawfully acquired computer program, provided that he shall do so during the loading and operation of the computer program or while correcting computer program errors;
- b) otherwise reproduces, translates, adapts, arranges or alters in any other way a computer program if necessary for the utilisation of a lawfully acquired computer program in accordance with its purpose, unless otherwise agreed;
- c) makes a back-up copy of the computer program, if necessary for its exploitation;
- d) examines, studies or tests, by himself or through another person on his behalf, the functionality of the program in order to identify the ideas and principles underlying any element of the program, provided that he shall do so while performing any of the acts of the program's loading, storing, displaying, running or transmitting, for which he is authorised;
- e) reproduces the code or translates its form during the reproduction of the computer program or during its translation or any other adaptation, adjustment or other alteration, for which he is authorized, doing so either by himself or through another person on his behalf, if such reproduction or translation is necessary to obtain the information needed to achieve the interoperability of an independently created computer program with other programs, where the information needed for the achievement of interoperability is not otherwise

easily and promptly available to such persons and such activity is restricted to those parts of the computer program that are necessary for the achievement of interoperability.

17. Does your national statute provide limitations and exceptions for the temporary use of digital works?

Yes  
 No

Please describe: general regulation of Licences for temporary Reproductions in the Art. 38a of Copyright Act)

(1) Copyright is not infringed by anybody who performs temporary acts of reproduction of works that are transient or incidental and represent an integral and essential part of a technological process which have no any independent economic significance, and whose sole purpose is to enable:

- a) Transmission of the work by an intermediary between third parties through a computer network or any other similar network; or
- b) Lawful use of the work.

(2) If the author grants permission, on a contractual basis, for the broadcasting of his work, his copyright shall not be infringed by the radio or television broadcaster that makes an ephemeral recording, using its own facilities for his own broadcasting.

**! This provision shall not apply fully for computer programs!**

Art. 66 Par. 7

Provisions of Articles ..., Article 38a Paragraph (1) Clause b), Article 38a Paragraph (2), .... shall not apply to computer programs.

The specific provisions for computer programs are in the Art. 66 Par. 1 a) and b)

Article 66

**Limitation of the Scope of the Author's Rights to a Computer Program**

(1) Copyright is not infringed by a lawful user of a computer program reproduction, if he:

- a) reproduces, translates, adapts, arranges or otherwise alters the computer program if necessary for the utilisation of a lawfully acquired computer program, provided that he does so during the loading and operation of the computer program or while correcting computer program errors;
- b) otherwise reproduces, translates, adapts, arranges or alters in any other way a computer program if necessary for the utilisation of a lawfully acquired computer program in compliance with its purpose, unless otherwise agreed;

18. Does your national statute include limitations and exceptions, or statutory safe harbors (statutory safe harbor refers to any statutory enactment which provides that a person will not be liable upon taking certain measures), for the activities of the service providers of digital transmission of works?

Yes  
 No

Please describe:

According to the Act No 480/2004 Coll., concerning certain information society services and concerning the amendment to certain acts the provider is not liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of

making more efficient the information's onward transmission to other recipients of the service upon their request, on condition that: the provider does not modify the information; the provider complies with conditions on access to the information; the provider complies with rules regarding the updating of the information, specified in a manner widely recognised and used by industry; the provider does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information; and the provider acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement (so called caching).

The service provider is not liable for the information stored at the request of a recipient of the service, on condition that the provider does not have actual knowledge of illegal activity or information or the provider upon obtaining such knowledge or awareness, act expeditiously to remove or to disable access to the information (so called hosting); (see Art. 4 and 5 of Act No 480/2004 Coll., concerning certain information society services and concerning the amendment to certain acts).

19. Does your national statute provide that certain limitations or exceptions prevail over the prohibition on the acts of trafficking with devices or providing services that allow the circumvention of technological protection measures or rights management information?

- Yes  
 No

If yes, please describe: \_\_\_\_\_

20. If recourse to legal proceedings is needed regarding exceptions and limitations, what is the average time needed to resolve a dispute regarding the prohibition of dealing with devices or providing services to circumvent the technological protection measures and rights management information?

Please describe: \_\_\_\_\_

*Part II: Limitations and Exceptions related to Educational Activities*

21. If your national statute is included in the analysis of specific exceptions contained in any of the studies on limitations and exceptions for educational or research activities (documents SCCR/19/4, SCCR/19/5, SCCR/19/6, SCCR/19/7, SCCR/19/8)<sup>1</sup>, do you consider that the analysis is correct?

- Yes  
 No  
 The national statute was not included in the analysis

If you do not consider that the analysis is correct, please describe why:

There are some incorrectnesses on the following pages:  
page 70 – “making of teaching anthologies”: It is allowed to use the quotation within the teachers own work. That means that it is not allowed to make the “anthologies” based only on quotations.

see:

Article 31

**Quotations**

(1) Copyright is not infringed by anybody who:

- a) In his own work uses to a justified extent excerpts from works of other authors which were made public;
- b) Uses excerpts from a work, or small works in their entirety, for the purposes of critique or review related to such a work and for the purposes of scientific or technical work and such use being made to the extent complying with fair practices and required by the specific purpose;
- c) Uses the work while teaching for illustration purposes or during scientific research, without seeking to achieve direct or indirect economic or commercial advantage and without exceeding the extent adequate to the given purpose;

however, if possible, the name of the author, unless the work is an anonymous work, or the name of the person under whose name the work is being introduced in public and the title of the work and source, shall always be indicated, .

(2) Copyright shall likewise not be infringed by anybody who makes further use of excerpts from a work, or small works in their entirety, as referred to in Paragraph (1) (a) or (b); provisions of Paragraph (1) after the semicolon shall apply *mutatis mutandis*.

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<sup>1</sup> For Latin American and the Caribbean countries, document SCCR/19/4. Available at:  
[http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=130303](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130303)

For African countries, document SCCR/19/5. Available at:  
[http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=130241](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130241)

For Arab countries, document SCCR/19/6. Available at:  
[http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=130302](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130302)

For Asian and the Pacific countries, document SCCR/19/7. Available at:  
[http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=130249](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130249)

For countries in North America, Europe, Caucasus, Central Asia and Israel, document SCCR/19/8. Available at: [http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=130393](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130393)



page 113 – Reproductions on paper or other similar bases for personal use of natural person or for internal use of legal person can be done also on behalf of these persons See Art. 30a of Copyright Act:

**Reproduction on Paper or Other Similar Base**

(1) Copyright is not infringed by:

- a) a natural person who for its own personal use,
- b) a legal person or a sole trader who for their own internal use,
- c) anybody, who upon order, for personal use by a natural person,
- d) anybody, who upon order, for a legal person's or a sole trader's own internal use

makes a printed reproduction of a work on paper or other similar base by the photographic technique or by any other process with similar effects, except where a printed reproduction is made of the musical notation of a musical work or musical – dramatical work and where – in cases under Clauses (c) and (d) above – the remuneration is paid in a regular and timely manner in accordance with Article 25.

page 116 – Only the performers must be the pupils, students or teachers of the school or of the school-related or educational establishment; there is any condition for audience (can be anybody) See Art. 35 Par. 2 of Copyright Act:

**Use of Work as Part of Civil and Religious Ceremonies or as Part of Official Events Organised by Public Authorities or during School Performances, and Use of School Work**

(...)

(2) Copyright is not infringed by anybody who uses a work during school performances performed exclusively by the pupils, students or teachers of the school or of the school-related or educational establishment, provided that this is not done for the purpose of any direct or indirect economic or commercial advantage.

page 165 – annex- table

on the first line: teaching purposes are mentioned in Art. 31 Par. 1 c) and Art. 35 Par. 3 “quotations” are regulated in the whole Art. 31:

**Quotations**

(1) Copyright is not infringed by anybody who:

- a) In his own work uses to a justified extent excerpts from works of other authors which were made public;
- b) Uses excerpts from a work, or small works in their entirety, for the purposes of critique or review related to such a work and for the purposes of scientific or technical work and such use being made to the extent complying with fair practices and required by the specific purpose;
- c) Uses the work while teaching for illustration purposes or during scientific research, without seeking to achieve direct or indirect economic or commercial advantage and without exceeding the extent adequate to the given purpose; however, if possible, the name of the author, unless the work is an anonymous work, or the name of the person under whose name the work is being introduced in public and the title of the work and source, shall always be indicated.

(2) Copyright shall likewise not be infringed by anybody who makes further use of excerpts from a work, or small works in their entirety, as referred to in Paragraph (1) (a) or (b); provisions of Paragraph (1) after the semicolon shall apply *mutatis mutandis*.

private copying in the sense of reproduction on paper or on similar bases is also regulated in the Art. 30a:

**Reproduction on Paper or Other Similar Base**

(1) Copyright is not infringed by:

- a) a natural person who for its own personal use,
- b) a legal person or a sole trader who for their own internal use,
- c) anybody, who upon order, for personal use by a natural person,
- d) anybody, who upon order, for a legal person's or a sole trader's own internal use

makes a printed reproduction of a work on paper or other similar base by the photographic technique or by any other process with similar effects, except where a printed reproduction is made of the musical notation of a musical work or musical – dramatical work and where – in cases under Clauses (c) and (d) above – the

remuneration is paid in a regular and timely manner in accordance with Article 25.

---

22. Does your national statute provide specific limitations and exceptions for educational purposes?

Yes

No

Please list them: Quotation - using of the work while teaching for illustration purposes (Art. 31 Par. 1 c))

Use of Work during School Performance and Use of School Work (Art. 35 Par. 2 and 3))

Article 31

**Quotations**

(1) Copyright is not infringed by anybody who:

(...)

c) Uses the work while teaching for illustration purposes or during scientific research, without seeking to achieve direct or indirect economic or commercial advantage and without exceeding the extent adequate to the given purpose; (...)

Article 35

**Use of Work as Part of Civil and Religious Ceremonies or as Part of Official Events Organised by Public Authorities or during School Performances, and Use of School Work**

(...)

(2) Copyright is not infringed by anybody who uses a work during school performances performed exclusively by the pupils, students or teachers of the school or of the school-related or educational establishment, provided that this is not done for the purpose of any direct or indirect economic or commercial advantage.

(3) Copyright is not infringed by a school or school-related or educational establishment if they use for teaching purposes or to meet their own internal needs a work created by a pupil or student as a part of his school or educational assignments ensuing from his legal relationship to his school or the school-related or educational establishment (school work), provided that this is not done for the purpose of any direct or indirect economic or commercial advantage.

23. In case of affirmative answer to the previous question, what kind of activities are those limitations and exceptions related to?

Face-to-face activities

Distance education

Both

Please list them: see above

*On performances*<sup>2</sup>

24. Does your national statute provide specific limitations and exceptions allowing performances for educational purposes, such as performances by teachers in classrooms or school concerts?

Yes

No

If yes, please describe: "

Article 35

**Use of Work as Part of Civil and Religious Ceremonies or as Part of Official Events Organised by Public Authorities or during School Performances, and Use of School Work**

(...)

(2) Copyright is not infringed by anybody who uses a work during school performances performed exclusively by the pupils, students or teachers of the school or of the school-related or educational establishment, provided that this is not done for the purpose of any direct or indirect economic or commercial advantage.

(...)

4) The provision of Article 31 Paragraph (1) of the sentence following the semicolon shall apply, *mutatis mutandis*, to Paragraphs (2)...

(... the name of the author (unless the work is an anonymous work) or the name of the person under whose name the work is being introduced in public, shall always be indicated; the title of the work and the source shall also be indicated, unless this is impossible...)

This licence shall also apply *mutatis mutandis* to the performer and his performance, to the phonogram producer and his phonogram, to the producer of audiovisual fixation and to his fixation and to the broadcaster and his broadcasts.

25. Does your national statute provide remuneration against the exercise of the specific limitations and exceptions that permit performances for educational purposes?

Yes

No

If yes, please describe: \_\_\_\_\_

26. Does your national statute provide for any specific requirement regarding the qualitative or quantitative limits and nature of the works or objects of related rights covered by the specific limitations and exceptions allowing performances for educational purposes?

---

<sup>2</sup> Performance is used here *lato sensu*. It is a broadly applied practice in national legislation to use terms other than those appearing in the international norms on copyright and related rights; that is, to characterize the acts and rights concerned in a way different from the way they are characterized legally in the said international norms. As in the current case, for example, several countries may grant a "right of public performance" in a way that it covers more or less all non-copy-related rights (not only the performance *stricto sensu*, but also and in particular, the right of broadcasting and the right of communication to the public by cable (wire), which, in the Berne Convention are construed as separate rights), or it is also frequent in national laws that a broader right of broadcasting is provided which also covers the right of communication to the public by cable (wire), a separate right under the Berne Convention.

Yes

No

If yes, please describe: This licence shall only apply to works that have been made public

Article 29

(...)

(2) Free uses and compulsory licences, except official and reporting licences (Article 34), licence for a school work (Article 35 3), licence for temporary reproductions (Article 38a), licence for photographic portrait (Article 38b) and licence for immaterial accessory exploitation of the work (Article 38c), shall only apply to works that have been made public.

It is provided that this is not done for the purpose of any direct or indirect economic or commercial advantage. (Art. 35 Par. 2)

The school performance must be performed exclusively by the pupils, students or teachers of the school or of the school-related or educational establishment. (Art. 35 Par. 2)

27. Who is eligible to engage in activity covered by the specific limitations and exceptions allowing performances for educational purposes? (more than one option can be selected)

Teachers

Students

Educational institutions

Others. Please describe: \_\_\_\_\_

28. In case educational institutions are eligible to engage in activities covered by specific limitations and exceptions allowing performances for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

For-profit

Not-for-profit

Public

Private

Others. Please describe: \_\_\_\_\_

*On reproduction*

29. Does your national statute provide targeted limitations and exceptions allowing reproduction for educational purposes?

- Yes  
 No

If yes, please describe: \_\_\_\_\_

30. What kind of reproduction is covered by those limitations and exceptions? (more than one option can be selected)

- Reprography  
 Digital copying  
 Others. Please describe: \_\_\_\_\_

Anybody can make a reproduction for his own personal use.

Art. 30 Par. 2

Copyright shall therefore not be infringed by anybody who for his own personal use makes a fixation, reproduction or imitation of a work.)

See also Article 30a:

**Reproduction on Paper or Other Similar Base**

(1) Copyright is not infringed by:

- a) a natural person who for its own personal use,
  - b) a legal person or a sole trader who for their own internal use,
  - c) anybody, who upon order, for personal use by a natural person,
  - d) anybody, who upon order, for a legal person's or a sole trader's own internal use
- makes a printed reproduction of a work on paper or other similar base by the photographic technique or by any other process with similar effects, except where a printed reproduction is made of the musical notation of a musical work or musical – dramatical work (...)

However, it is not permitted to make a copy of the computer programm or an electronic database for own personal use! (Art. 30 Par. 3)

31. Do the limitations or exceptions allowing reproduction include the preparation of course packs, compilations or anthologies?

- Yes  
 No

If yes, please describe: \_\_\_\_\_

32. Does your national statute provide remuneration for the exercise of the specific limitations and exceptions allowing reproduction for educational purposes?

Yes  
 No

If yes, please describe:

There is a general regulation of reprographic levies, see Art. 25 of Copyright Act:

Article 25

**Right to Remuneration in Connection with Reproduction of Work for Personal Use and for Legal Person's Own Internal Use**

(1) For works that were made public and may be reproduced:

a) for personal use by a natural person or for the own internal use by a legal person or a sole trader (Articles 30 and 30a), using a device for making printed reproductions on paper or other similar base; or  
b) for personal use by a natural person (Article 30) on the basis of an audio, audiovisual or any other fixation or broadcasting by the transfer thereof by means of a device to blank record carriers, the author is entitled to remuneration in connection with such reproduction of the work.

(2) The person liable to pay remuneration pursuant to Paragraph (1) shall be:

a) the producer of the devices for making reproductions of fixations, importer of such devices from third countries (hereinafter the "importer") or consignee of such devices from member states of the European Communities (hereinafter the "consignee");  
b) the producer, importer or consignee of technical devices for making printed reproductions;  
c) the producer, importer or consignee of blank record carriers;  
d) the carrier or forwarder *in lieu* of the liable person pursuant to Paragraphs (a) to (c), unless that person informed the relevant collective rights manager without undue delay upon written request about the details necessary for the identification of the importer, consignee or producer;  
e) the provider of paid reproduction services, in the case of printed reproductions; provider of paid reproduction services shall also mean the person who makes available, for a consideration, the device for making printed reproductions.

(3) Entitlement to remuneration to be paid by the persons defined in Paragraph (2) (a) to (d) in connection with the reproduction of a work for individual use shall pertain to the author at the time of the import, receiving or first sale of:

a) Device for making reproductions of fixations;  
b) Device for making printed reproductions;  
c) Blank record carriers.

(4) Entitlement to the remuneration to be paid by the persons defined in Paragraph (2) (b) shall depend on the probable number of devices designated for making print reproductions of works under Article 30a. For the calculation of the amount of the remuneration in respect of the devices designated for making print reproductions, the probable number of these devices is set at 20 %. The remuneration is calculated on the basis of the average price of the device exclusive of the value added tax.

(5) Entitlement to the remuneration to be paid by the persons defined in Paragraph (2) (e) shall depend on the probable number of the print reproductions of works made in accordance with Article 30a. The rules set out in Points 6 and 7 of the Annex hereto shall apply to the calculation of remuneration in respect of the print reproductions made.

(6) The persons referred to in Paragraph (2) above shall submit to the relevant collective rights manager – always in summary for half of the calendar year and not later than by the end of the following calendar month – information on the facts relevant for setting the amount of the remuneration, including, but not limited to, information on the type and number of the sold, imported or received devices for making reproductions of fixations, devices for making printed reproductions, and the blank record carriers, and also on the total number of the printed reproductions made by the devices for providing paid reproduction services.

(7) The Ministry of Culture (hereinafter the "Ministry") shall issue a Decree to define the types of devices to make print reproductions and the types of blank record carriers on which a remuneration is to be paid in accordance with Paragraph (1) above and also to define amount of the lump-sum remuneration depending on the type of device for making the printed reproductions and types of blank record carriers. This Decree shall also define types of devices for making reproductions of fixations on which a remuneration is to be paid in accordance with Paragraph (1) above; level of this remuneration is indicated in the Annex to this Act.

(8) Remuneration shall not be paid where the devices referred to in Paragraph (3) (a) and (b) are exported or consigned for resale or where blank record carriers are exported or consigned for resale. Also, remuneration shall not be paid in the case of devices and blank record carriers if these are intended only to be used within the Czech

republic for the reproduction of works on the basis of licence agreements by persons who use them so in the course of their own activities.

33. Does your national statute provide for any specific requirement regarding the qualitative or quantitative limits and nature of the works or objects of related rights covered by the specific limitations and exceptions allowing reproduction for educational purposes?

- Yes  
 No

If yes, please describe:

There is a general requirement to respect the „3-step-test“ - see regulation in Article 29:

Article 29

(1) Copyright exceptions and limitations shall only be applied in certain special cases specified herein and only if the use of a work in such special cases shall not conflict with the normal exploitation of the work and shall not unreasonably prejudice the legitimate interests of the author.

34. Who is eligible to engage in activities covered by the specific limitations and exceptions allowing reproduction for educational purposes? (more than one option can be selected)

- Teachers  
 Students  
 Educational institutions  
 Others.

Please describe: See above (Art. 30a and Art. 25)

35. In case educational institutions are eligible to engage in activities covered by the enumerated limitations and exceptions allowing reproduction for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

- For-profit  
 Not-for-profit  
 Public  
 Private  
 Others. Please describe: \_\_\_\_\_

36. Does your national statute subject the limitations and exceptions on reproduction for educational purposes to the use of technological measures?

- Yes  
 No

If yes, please describe: \_\_\_\_\_





*On translations*

37. Does your national statute provide specific limitations and exceptions allowing translations for educational purposes?

- Yes
- No

38. Does your national statute provide remuneration against the exercise of specific limitations and exceptions allowing translations for educational purposes?

- Yes
- No

If yes, please describe: \_\_\_\_\_

39. Does your national statute provide for any specific requirement regarding the extent and nature of the works or objects of related rights covered by the enumerated limitations and exceptions allowing translations for educational purposes?

- Yes
- No

If yes, please describe: \_\_\_\_\_

40. Who is eligible to engage in activities covered by the specific limitations and exceptions allowing translations for educational purposes? (more than one option can be selected)

- Teachers
- Students
- Educational institutions
- Others. Please describe: \_\_\_\_\_

41. In case educational institutions are eligible to engage in activities covered by any of the enumerated limitations and exceptions allowing translations for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

- For-profit
- Not-for-profit
- Public
- Private
- Others. Please describe: \_\_\_\_\_

*On making available in digital networks*

42. Does your national statute provide specific limitations and exceptions for making available in digital networks for educational purposes?

- Yes  
 No

43. Do the specific limitations or exceptions for making available in digital networks include coursepacks, compilations or anthologies?

- Yes  
 No

If yes, please describe: \_\_\_\_\_

44. Does your national statute provide remuneration against the exercise of the specific limitations and exceptions for making available in digital networks for educational purposes?

- Yes  
 No

If yes, please describe: \_\_\_\_\_

45. Does your national statute include any specific requirement regarding the qualitative or quantitative limits extent and nature of the works or objects of related rights covered by the specific limitations and exceptions for making available in digital networks for educational purposes?

- Yes  
 No

If yes, please describe: \_\_\_\_\_

46. Who is eligible to engage in activities covered by the specific limitations and exceptions for making available in digital networks for educational purposes? (more than one option can be selected)

- Teachers  
 Students  
 Educational institutions  
 Others. Please describe: \_\_\_\_\_

47. In case educational institutions are eligible to engage in activities covered by the specific limitations and exceptions for making available in digital networks for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

- For-profit
- Not-for-profit
- Public
- Private
- Others. Please describe: \_\_\_\_\_

48. Does your national statute subject the limitations and exceptions on making available in digital networks for educational purposes to the use of technological measures?

- Yes
- No

If yes, please describe: \_\_\_\_\_

49. Does your national statute include any other specific limitations or exceptions related to educational purposes that have not been covered above?

- Yes
- No

50. If not, what other limitations and exceptions for educational purposes would be necessary?

Please describe: \_\_\_\_\_

51. Are there impediments to the use of limitations and exceptions for educational purposes (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

- Yes
- No

If yes, please describe: lack of information about the existing limitations and exceptions

*Part III: Limitations and Exceptions related to Libraries and Archives*

52. If your national statute is included in the analysis of specific exceptions contained in the Annex of the WIPO Study on Copyright Limitations and Exceptions for Libraries and Archives (document SCCR/17/2)<sup>3</sup>, do you consider that the analysis is correct?

Yes

No

The national statute was not included in the analysis

If you do not consider that the analysis is correct, please describe why: \_

There are some incorrectnesses on the page 164 (Appendix):

“Who can copy?” - library, archive, museum, gallery, school, university and other non-profit school-related and educational establishment (see Art. 37 Par. 1.)

“Purpose of the copy?” – 1) archiving and conservation purposes on the condition that reproduction does not serve any direct or indirect economic or commercial purpose  
- 2) reproduction of a work whose reproduction has been damaged or lost, provided that it is possible to verify with the exertion of reasonable effort that it is not being offered for sale, or a print reproduction of a minor part of the work, if such part has been damaged or lost  
- 3) making of a reproduction needed for making of availability, which constitutes a part of its collections to members of the public by dedicated terminals located on its premises, such a work being so made available exclusively for the purposes of research or private study of such members of the public, provided that such members of the public are prevented from making reproductions of the work

“Other provisions?” “The establishment can lend the originals or copies of published works (other than computer programs and copies of audio or audiovisual fixations).“ – Regulation is included in Art. 37 Par. 2 and 3.  
Reproductions of works recorded in audio or audiovisual form can be lent only to on-the-spot reference use.

Anti-Circumvention of Technological Protection Measures  
– „The Act of Circumvention“ Circumvention of effective technical measures that are in place to protect rights under the Copyright Act. The expression effective technical measures means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works, which are not authorised by the author, if the author can control the use of a protected work through application of an access control or protection

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<sup>3</sup> Document SCCR/17/2, page 72. Available at:  
[http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=109192](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=109192)

process, such as encryption, scrambling or other transformation of the work, or a copy control mechanism.

53. Does your national statute contain any limitations or exceptions that permit copying by libraries and/or archives for purposes of preservation or replacement?

- Yes  
 No

Please describe:

Article 37

**Library Licence**

(1) Copyright is not infringed by a library, archive, museum, gallery, school, university and other non-profit school-related and educational establishment

- a) if it makes a reproduction of a work for its own archiving and conservation purposes, and if such a reproduction does not serve any direct or indirect economic or commercial purpose;
- b) if it makes a reproduction of a work whose reproduction has been damaged or lost, provided that it is possible to verify with the exertion of reasonable effort that it is not being offered for sale, or a print reproduction of a minor part of the work, if such part has been damaged or lost (...)

54. What types of works may be reproduced for these purposes?

Please describe: Only works that have been made public. In the case of „reserve reproduction“ in the sense of Art 37 Par. 1 b) (see above) – concerning only a work whose reproduction has been damaged or lost, provided that it is possible to verify with the exertion of reasonable effort that it is not being offered for sale or a print reproduction of a minor part of the work.

55. Does your national statute establish qualitative or quantitative limits for these purposes?

- Yes  
 No

Please describe: \_\_\_\_\_

56. What other conditions must be met in order for such reproduction to be authorized?

Please describe:

It may not serve any direct or indirect economic or commercial purpose.

57. Does your national statute contain any limitations or exceptions that permit copying by libraries or archives for patron use?

- Yes  
 No

Please describe:

There is a general regulation, see Article 30a:

Article 30a

**Reproduction on Paper or Other Similar Base**

(1) Copyright is not infringed by:

- a) a natural person who for its own personal use,
- b) a legal person or a sole trader who for their own internal use,
- c) anybody, who upon order, for personal use by a natural person,
- d) anybody, who upon order, for a legal person's or a sole trader's own internal use

makes a printed reproduction of a work on paper or other similar base by the photographic technique or by any other process with similar effects, except where a printed reproduction is made of the musical notation of a musical work or musical – dramatical work and where – in cases under Clauses (c) and (d) above – the remuneration is paid in a regular and timely manner in accordance with Article 25.

There is also a specific regulation for libraries in Art. 37 Par. 1 c)

Copyright is not infringed by a library, archive, museum, gallery, school, university and other non-profit school-related and educational establishment ...,

if it makes available a work, including the making of a reproduction needed for such availability, which work constitutes a part of its collections and the use thereof is not subject to selling or licensing conditions, except the communication of the work by the method specified in Article 18 Paragraph 2 to members of the public by using technical devices located on its premises, such a work being so made available exclusively for the purposes of research or private study of such members of the public, provided that such members of the public are prevented from making reproductions of the work; this is without prejudice to the provisions of Article 30a Paragraph (1) Clauses c) and d);

58. What types of works may be reproduced for these purposes?

Please describe: Any except of computer program and sheets of music (see Art. 30a), only works that have been made public (see Art. 29).

59. Does your national statute include specific provisions regarding orphan works?

- Yes
- No

If yes, please describe: \_\_\_\_\_

60. Does your country have plans to include or modify the specific exceptions and limitations related to the activities of libraries and archives?

- Yes
- No

If yes, please describe: There are discussions on “interlibrary lending” of digital materials, lending of reproductions in electronic form that are a part of printed reproduction of a work, remuneration for public lending right for publishers. The final draft proposal has not been finalised yet. We also expect the European Commission will propose some solutions concerning mass digitizations projects in libraries, museums and archives.

61. If not, what other limitations and exceptions for libraries and archives would be necessary?

Please describe: \_\_\_\_\_

62. Are there impediments to the use of limitations and exceptions related to the activities of libraries and archives (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

Yes

No

If yes, please describe: lack of information about the existing limitations and exceptions

63. Does your national statute establish qualitative or quantitative limits for these purposes?

Yes

No

Please describe: \_\_\_\_\_

64. What other conditions must be met in order for such reproduction to be authorized?

Please describe: \_\_\_\_\_

65. Does your national statute contain any limitations or exceptions that permit libraries to reproduce and/or distribute works (either reprographic and/or digital) for the purposes of interlibrary lending?

Yes

No

Please describe:

66. Does your national statute contain any limitations or exceptions that permit any other organizations (such as museums or educational institutions) to reproduce or distribute works for archival, preservation, or replacement purposes?

Yes

No

Please describe: The “library licence” concerns also archive, museum, gallery, school, university and other non-profit school-related and educational establishment.



*Part IV: Limitations and Exceptions for Persons with Disabilities*

67. If your national statute is included in the analysis of specific exceptions contained in Annexes 2 and 3 of the Study on Limitations and Exceptions for the Visually Impaired (document SCCR/15/7)<sup>4</sup>, do you consider that the analysis is correct?

- Yes  
 No  
 The national statute was not included in the analysis

If you do not consider that the analysis is correct, please describe why:

We would like to add some specification of the statements in this analysis:

page 42: Additional conditions applying to the exception:

making of reproduction not for the purpose of direct or indirect economic or commercial advantage; to the extent required by the specific disability and exclusively for the benefit of people with disability

page 146: „Overridable by contract“ – Author of the work can not suspend the effects of the license for disabled in any contract.

page 194: Distribution to individuals - Copyright is not infringed by the person referred to in Article 37 (1), if the originals or reproductions of published works are lent to meet the needs of people with disability in connection with their disability. (see Art. 38 Par. 2 Copyright Act)

68. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for persons with print disabilities<sup>5</sup> or visually impaired persons, including the reading impaired?

- Yes  
 No

Please describe:

Article 38

**Licence for Disabled**

(1) Copyright is not infringed by anybody who:

a) exclusively for the benefit of people with disability and not for the purpose of direct or indirect economic or commercial advantage, makes a reproduction or has a reproduction made of a published work to the extent required by the specific disability; a reproduction so made may also be distributed and communicated by the same person, unless this is done for the purpose of direct or indirect economic or commercial advantage;

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<sup>4</sup> Document SCCR/15/7, page 138. Available at:  
[http://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=75696](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=75696)

<sup>5</sup> A person with print disability is a person who cannot effectively read print because of a visual, physical, perceptual, developmental, cognitive, or learning disability.

b) exclusively for the benefit of people with vision disability and not for the purpose of direct or indirect economic or commercial advantage, provides the verbal expression of the visual component and adds it to the audio component of an audiovisual recording of an audiovisual work; the audio component of the audiovisual recording of an audiovisual work may also be reproduced, distributed and communicated by the same person, unless this is done for the purpose of direct or indirect economic or commercial advantage.

(2) Copyright is not infringed by the person referred to in Article 37 (1), if the originals or reproductions of published works are lent to meet the needs of people with disability in connection with their disability.

68. Does your national statute specify the formats (for instance, Braille or large print) that fall under this exception?

- Yes  
 No

Please describe: \_\_\_\_\_

69. What other conditions must be met in order for such uses to be authorized?

Please describe: - extent required by the specific disability  
- not for the purpose of direct or indirect economic or commercial advantage

70. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to persons with print disabilities or visually impaired persons, including the reading impaired?

- Yes  
 No

There is no explicit regulation, however we can apply general provision of Art. 38

**(Licence for People with Disabilities)**

(1) Copyright is not infringed by anybody who:

a) exclusively for the benefit of people with disability and not for the purpose of direct or indirect economic or commercial advantage, makes a reproduction or has a reproduction made of a published work to the extent required by the specific disability; a reproduction so made may also be distributed and communicated by the same person, unless this is done for the purpose of direct or indirect economic or commercial advantage;

b) exclusively for the benefit of people with vision disability and not for the purpose of direct or indirect economic or commercial advantage, provides the verbal expression of the visual component and adds it to the audio component of an audiovisual recording of an audiovisual work; the audio component of the audiovisual recording of an audiovisual work may also be reproduced, distributed and communicated by the same person, unless this is done for the purpose of direct or indirect economic or commercial advantage.

(2) Copyright is not infringed by the person referred to in Article 37 (1), if the originals or reproductions of published works are lent to meet the needs of people with disability in connection with their disability.

(3) Provisions of Article 30 (5) shall apply *mutatis mutandis*.)

But it should be emphasized that the provisions of the Copyright Act have only territorial effect!

Please describe: \_\_\_\_\_

71. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for deaf persons?

- Yes  
 No

Please describe: See above the general licence for people with disabilities.

72. Does your national statute specify the formats that fall under this exception?

- Yes  
 No

Please describe: \_\_\_\_\_

73. What other conditions must be met in order for such uses to be authorized?

Please describe: See above the general licence for people with disabilities (extent required by the specific disability, not for the purpose of direct or indirect economic or commercial advantage).

74. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to the deaf persons?

- Yes  
 No

Please describe: \_\_\_\_\_

75. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for persons with any other disabilities?

- Yes  
 No

Please describe: Licence for disabled people is general, therefore it shall apply to all people with any health disability.

76. Does your national statute specify the formats that fall under this exception?

- Yes  
 No

Please describe: \_\_\_\_\_

77. What other conditions must be met in order for such uses to be authorized?

Please describe: - extent required by the specific disability  
- not for the purpose of direct or indirect economic or commercial advantage

78. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to persons with any other disabilities?

- Yes
- No

Please describe: \_\_\_\_\_

79. Does your country have plans to include or modify the specific exceptions related to persons with print disabilities, visually impaired persons or other persons with disabilities?

- Yes
- No

If yes, please describe: \_\_\_\_\_

80. If not, what other the limitations and exceptions for persons with disabilities would be required?

Please describe: \_\_\_\_\_

81. Are there impediments to the use of the limitations and exceptions for persons with disabilities (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

- Yes
- No

Please describe: \_\_\_\_\_

*Part V: Religious, social and cultural exceptions*

82. Does your national statute provide limitations and exceptions for religious, social and cultural purposes?

- Yes  
 No

83. In case of affirmative answer to the previous question, what kind of activities are those limitations and exceptions related to?

- Religious activities  
 Cultural Activities  
 Social Activities

84. Does your national statute subject the exercise of limitations and exceptions for religious purposes to the condition of the nature of the religious activities?

- Yes  
 No

If yes, please describe: \_\_\_\_\_

85. Does your national statute provide remuneration for the exercise of limitations and exceptions for religious purposes?

- Yes  
 No

86. Does your national statute subject the exercise of limitations and exceptions for religious purposes to any specific requirement regarding the extent and nature of the works or objects of related rights?

- Yes  
 No

If yes, please describe.

Article 35

**Utilisation of a Work as Part of Civil and Religious Ceremonies or as Part of Official Events Organised by Public Authorities or during School Performances, and the Utilisation of a School Work**

(1) Copyright is not infringed by whoever utilises a work during civil or religious ceremonies or during official events organised by public authorities, provided that this is not done for the purpose of any direct or indirect economic or commercial advantage.

...

87. Does your national statute subject the exercise of limitations and exceptions for cultural purposes to the condition of the nature of the cultural activities?

Yes

No

If yes, please describe: See Article 32 of Copyright Act:

**Promotion of Exhibition of Works of Art and Sale Thereof**

(1) Copyright shall not be infringed by anybody, who for the purposes of promoting an exhibition or sale of originals or reproductions of works of art, uses such works to the extent necessary for the promotion of such an event and shall not use them in any other way for direct or indirect economic or commercial advantage. If usual, the name of the author, unless the work is an anonymous work, or the name of the person under whose name the work is being introduced in public, the title of the work and source shall always be indicated.

(2) In accordance with Paragraph (1) above, the catalogue of the exhibited works may be used further.

88. Does your national statute provide remuneration for the exercise of limitations and exceptions for cultural purposes?

Yes

No

89. Does your national statute provide for any specific requirement regarding the extent and nature of the works or objects of related rights covered by the limitations and exceptions for cultural purposes?

Yes

No

If yes, please describe: See above. (The works can be used only to the extent necessary for the promotion of such an event and it is permitted to use them in any other way for direct or indirect economic or commercial advantage. If usual, the name of the author, unless the work is an anonymous work, or the name of the person under whose name the work is being introduced in public, the title of the work and source shall always be indicated.)

90. Does your national statute subject the exercise of limitations and exceptions for social purposes to the condition of the nature of social activities?

Yes

No

If yes, please describe: See Art. 38e of Copyright Act.

**Licences for Social Facilities**

Copyright is not infringed by a health-care or social institution that was founded or established for noncommercial purposes, particularly hospitals and prisons, which make reproductions of broadcasted works and perform such reproduced works to the persons located in such institutions to the extent adequate to the purpose of this licence.

91. Does your national statute provide remuneration for the exercise of limitations and exceptions for social purposes?

Yes  
X No

92. Does your national statute subject the exercise of limitations and exceptions for social purposes to any specific requirement regarding the extent and nature of the works or objects of related rights?

X Yes  
 No

If yes, please describe: See Article 38e of the Copyright Act

**Licences for Social Facilities**

Copyright is not infringed by a health-care or social institution that was founded or established for noncommercial purposes, particularly hospitals and prisons, which make reproductions of broadcasted works and perform such reproduced works to the persons located in such institutions to the extent adequate to the purpose of this licence.

*Part VI: Other questions on digital technology*

93. Does your national statute provide any limitations or exceptions for reverse engineering?

Yes  
 No

If yes, please describe:

Article 66

**Limitation of Scope of Author's Rights to Computer Program**

(1) Copyright is not infringed by a lawful user of a computer program reproduction, if he:  
(...)

d) examines, studies or tests, by himself or through another person on his behalf, the functionality of the program in order to identify the ideas and principles underlying any element of the program, provided that he shall do so while performing any of the acts of the program's loading, storing, displaying, running or transmitting, for which he is authorised;

94. Does your national statute impose any kind of liability (direct, indirect, or secondary) according to which a party can be held liable for the copyright infringement of third parties under certain circumstances (such as when that party has the ability to control an infringer's actions or contributes to a third party's infringing actions)?

Yes  
 No

If yes, please describe:

The service provider is liable for the information stored at the request of a recipient of the service, on condition that the provider have actual knowledge of illegal activity or information or the provider upon obtaining such knowledge or awareness, does not act expeditiously to remove or to disable access to the information. (see Art. 5 of Act No 480/2004 Coll., concerning certain information society services and concerning the amendment to certain acts, which implemented the so called E-commerce Directive into the Czech law).

95. With respect to liability that arises from the infringing activities of third parties, does your national statute, for purposes such as to encourage online service providers to cooperate with rightsholders in deterring infringement, provide limitations or exceptions, or statutory safe harbors, to the liability of online service providers in any way?

Yes  
 No

If yes, please describe:

The provider is not liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information's onward transmission to other recipients of the service upon their request, on condition that: the provider does not modify the information; the provider complies with conditions on



access to the information; the provider complies with rules regarding the updating of the information, specified in a manner widely recognised and used by industry; the provider does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information; and the provider acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement (so called caching).

The service provider is not liable for the information stored at the request of a recipient of the service, on condition that the provider does not have actual knowledge of illegal activity or information or the provider upon obtaining such knowledge or awareness, act expeditiously to remove or to disable access to the information (so called hosting); (see Art. 4 and 5 of Act No 480/2004 Coll., concerning certain information society services and concerning the amendment to certain acts).

96. With respect to liability that arises from the infringing activity of a third party, for which of the following activities, if any, does your national statute provide limitations or exceptions, or statutory safe harbors, to the liability of online service providers?

- Acting as a conduit for infringing material (e.g., transmitting, routing, or supplying connections for material)
- Caching infringing material
- Storing infringing material at the direction of a user
- Providing access by means of information search tools such as indices, references, hyperlinks and directories to infringing materials that users post
- Others. Please specify:

97. What conditions, if any, must be met in order for an online service provider to qualify for the limitation of liability, exception to liability, or statutory safe harbor?

Please specify:

The provider is not liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information's onward transmission to other recipients of the service upon their request, on condition that: the provider does not modify the information; the provider complies with conditions on access to the information; the provider complies with rules regarding the updating of the information, specified in a manner widely recognised and used by industry; the provider does not interfere with the lawful use of technology, widely recognised and used by industry, to obtain data on the use of the information; and the provider acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement (so called caching).

The service provider is not liable for the information stored at the request of a recipient of the service, on condition that the provider does not have actual knowledge of illegal activity or information or the provider upon obtaining such knowledge or awareness, act expeditiously to

remove or to disable access to the information (so called hosting); (see Art. 4 and 5 of Act No 480/2004 Coll., concerning certain information society services and concerning the amendment to certain acts).

*Part VII: General questions to cover areas left out in Part I to VI*

98. Are the following limitations or exceptions included in your national statute? (more than one option can be selected)

- right of quotation
- news reporting
- ephemeral copies
- incidental uses
- government uses
- non-voluntary license for broadcasting
- non-voluntary license for mechanical reproduction of musical works

99. Does your national statute include limitations and exceptions for any other activities that are not covered in the questionnaire so far?

- Yes
- No

If yes, please describe: see

Article 33

**Use of a Work Located in Public Place**

(1) Copyright is not infringed by anybody who records or expresses by drawing, painting, graphic art, photography or film a work permanently located on a square, in a street, in a park, on a public route or in any other public place. (...)

Article 36

**Limitation of Copyright to Collection of works**

Copyright to a collection of works shall not be infringed by the legitimate user of the collection of works if he uses such work for the purposes of accessing its content and for the normal exploitation of its content.

Article 38b

**Licence for Photographic Portrait**

Copyright is not infringed by anybody who makes a reproduction of a photographic work that is his own portrait and that he commissioned to be made for a consideration; a reproduction made in this way may also be used by the portrayed person for non-commercial purposes, unless such use is forbidden.

Article 38d

**Licence to Works of Applied Art and Works of Architecture**

Copyright is not infringed by anybody (who):

- a) leases, lends or exhibits the original or reproduction of a work of applied art expressed in its applied form or an work of architecture expressed in the form of erecting a building;
- b) designs or executes to a necessary extent a change to a completed building in which an work of architecture is expressed, and provided that the value of such work is preserved; if justified by the importance of the work of architecture and if such a request may fairly be posed, such a person shall notify his intention in advance to the author and shall upon request provide the author with the documentation of the building, including pictures that show the state before the changes.

Article 39

**Use of an Original or a Reproduction of Work of Fine Arts or of a Photography or a Work Expressed in Manner Analogous to Photography by its exhibition**

Copyright is not infringed by the owner of, or a person who borrows from the owner, the original or reproduction of a work of fine arts or of a photographic work or of a work produced by a process similar to photography, who exhibits such work or provides such work for exhibition free of charge, unless such use was banned by the author during the transfer of ownership to such an original or reproduction of the work, and the

owner or borrower were aware of or must have been aware of the ban particularly because of the inscription of the ban in the register maintained for that purpose by the collective rights manager.

100. Has your country signed, or is in the process of negotiating, a Free Trade Agreement (FTA) containing clauses on copyright and related rights exceptions and limitations?

Yes

No

Please describe:

The Czech Republic is as a member of EU also member of all FTAs that EU has ever concluded.

101. If so, with which country or group of countries?

Please describe: \_\_\_\_\_

102. Please add any further comments and information you deem interesting for this questionnaire.

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[End of questionnaire]