

## **WIPO SUMMARY OF THE RESPONSES TO THE QUESTIONNAIRE FOR SURVEY ON COPYRIGHT REGISTRATION AND DEPOSIT SYSTEMS**

### **B. LEGAL DEPOSIT**

#### **27. Does your country have a legal deposit system/s in place?**

The majority of respondent countries (77.5%) have a legal deposit system in place.

These include: Albania, Algeria, Armenia, Argentina, Austria, Bahrain, Republic of Belarus, Belize, Bhutan, Brazil, Burundi, Chile, China, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Ecuador, Finland, Ghana, Greece, Guatemala, Guinea, Hungary, Ireland, Jamaica, Japan, Italy, Kenya, Kingdom of Saudi Arabia, Republic of Korea, Latvia, Liechtenstein, Lithuania, Luxemburg, Madagascar, Mali, México, Republic of Moldova, Mongolia, Monaco, Montenegro, Namibia, Nepal, New Zealand, Norway, Oman, Pakistan, Peru, Romania, Russia, Serbia, Singapore, South Africa, Spain, Sri Lanka, Sweden, Thailand, Tunisia, Ukraine, United Kingdom and United States America.

#### **28. Please list relevant national legislation regulating the legal deposit.**

The relevant national legislation and regulations of the responding authorities on legal deposit have been specified in detail in the corresponding response ([Annex B.1](#)).

#### **29. Is the legal deposit mandatory or voluntary in your Country? If mandatory, what are the legal consequences in case of non compliance?**

In the majority of countries where there is a deposit system in place, the deposit is mandatory and in most cases, non compliance entails an economic fine. This is the case in Albania, Algeria, Argentina, Austria, Bahrain, Belize, Brazil, Bhutan, Chile, China, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Finland, Greece, Guatemala, Hungary, Kenya, Republic of Korea, Ireland, Italy, Jamaica, Japan, Latvia, Liechtenstein, Lithuania, Luxemburg, Madagascar, Mexico, Republic of Moldova, Monaco, Montenegro, Namibia, New Zealand, Norway, Pakistan, Peru, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, South Africa, Spain, Sri Lanka, Sweden, Thailand, Trinidad & Tobago, Ukraine, United Kingdom and United States of America.

In Argentina, in addition to the fine, the law provides for a suspension of the patrimonial right of reproduction. In China, serious cases of non compliance can imply additional consequences, including the suspension of economic rights.

In Armenia, Burundi, Guinea, Mali, Mongolia and Oman the legal deposit is voluntary.

**30. What are the functions performed by your National legal deposit system (e.g. preservation of cultural heritage; collection of statistical information, etc.)?**

The functions performed by the national legal deposit systems may vary from country to country. Generally speaking, the following more common functions could be highlighted:

- Proof of the publication of the deposited work;
- Collection of statistical information and creation of a database on registered and certified work;
- Support of research and development;
- Preservation of cultural heritage (archiving), publication of national bibliography, and development of libraries' services.

**31. Is there any connection or interaction among legal deposit and copyright protection?**

According to the responses, there is a connection/interaction between legal deposit and copyright protection in most countries where legal deposition is a requirement. For instance, the deposit also serves as a prima facie evidence; a proof of the date of creation and ownership of the work in case of disputes.

However, in an important number of countries, there is no connection or interaction between legal deposit and copyright protection. This is the case in Belize, Republic of Belarus, Bhutan, Brazil, Burundi, Colombia, China, Costa Rica, Croatia, Czech Republic, Hungary, Ireland, Jamaica, Japan, Kenya, Republic of Korea, Liechtenstein, Lithuania, Mali, México, Republic of Moldova, Mongolia, Namibia, Nepal, New Zealand, Peru, Serbia, Spain, Thailand, Trinidad & Tobago and the United States of America

**32. Does your national legislation have any provision in regard to making copies or adapting formats of deposited works for preservation purposes? If so, please clarify under which terms and conditions.**

In a first group of countries, the national legislation does not have any provision in regard to making copies or adapting formats of deposited works for preservation purposes. This is the case in Albania, Algeria, Argentina, Armenia, Bahrain, Republic of Belarus, Belize, Brazil, Burundi, China, Costa Rica, Guatemala, Kenya, Kingdom of Saudi Arabia, Liechtenstein, Luxemburg, Madagascar, Mali, Monaco, México, Republic of Moldova, Mongolia, Namibia, Nepal, Oman, Pakistan, Peru, Sri Lanka and Trinidad & Tobago.

Other countries do include specific provisions for preservation purposes. This group includes Austria, Bhutan, Chile, Colombia, Croatia, Czech Republic, Denmark, Ecuador, Finland, Ghana, Greece, Guinea, Hungary, Ireland, Italy, Latvia, Lithuania, Montenegro, New Zealand, Norway, Jamaica, Japan, Korea, Romania, Russia, Serbia, Singapore, South Africa, United Kingdom, Ukraine, and United States of America.

As a matter of example, in Austria, the Copyright Law establishes that "any work may be copied if the original is in the possession of the collection (but only a single copy may be made – "preservation copy")". The Law further states that "a published work may be copied in several copies on condition that the work is out of print or has not been distributed in sufficient number of copies. All copies referred to above may be digital copies, provided however that the copies are produced only for non-commercial ends". In Ecuador, the intellectual property law states that it permitted the reproduction of a single copy of a work located in the permanent collection of libraries or archives, with the sole purpose of replacing it if necessary. The Copyright Act of Ghana permits archives and libraries to make a copy of a work for storage in the libraries or archives. In Jamaica, both Copyright Act and the Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulation 1993 provides that the

national publisher shall grant permission to the legal depository to copy (including download), reformat or refresh for preservation and documentation purposes, any document he deposits. The Copyright Act of the Republic of Korea allows libraries to reproduce or digitalize printed materials that they possess for preservation purposes. The Act further allows reproduction in analogue format by one library of a printed material, which is out of print, upon request of another library for preservation purpose. In such a case, no reproduction in digital format is allowed.

**33. What is the object of legal deposit? Please list all types or categories of material subject to legal deposit (e.g. Print Material, such as books, serials, government publication; Non-Print Material, such as music and audiovisual works, broadcast material).**

The potential objects of legal deposit vary greatly in the various national systems. Nevertheless, material subject to legal deposit usually refers to the general notion of literary and artistic works. Along the lines of the Berne Convention, this concept is defined by means of an open, non exhaustive list of productions in the literary, artistic and scientific domain. They also include sometimes the subject matter of related rights. The deposit of a fixed copy of the work is requested.

National deposit systems can include the following:

- print materials and materials in electronic format (government publications, collections of laws, collection of international agreements, banknotes, securities, booklets, flyers, posters, post cards, official and trade forms, maps, atlases, scores, text, notes, maps, special prints, journals, newspapers, magazines, bulletins, geographical and other charts, etc.);
- materials for the blind or partially-sighted; special materials for physically impaired persons including Braille materials;
- official documents;
- software or computer programs;
- musical works in notation and recorded;
- audio-visual works/performances, broadcast materials, phonogram;
- electronic editions;
- non-published documents;
- patent documents;
- databases;
- standards;
- coins;
- combined documents.

**34. Does legal deposit apply upon production/printing of content or after its distribution? Does legal deposit apply to material printed in your country but distributed abroad?**

The obligation of legal deposit generally applies to the content of all material produced/printed in the Member State concerned independently of the place of distribution. Moreover, in most cases, materials and electronic documents in tangible format produced abroad which are intended for distribution to the public within the national borders or which have been specially adapted for distribution to the public in the concerned State must also be deposited.

**35. Is there any type or category of material exempted from legal deposit for policy reasons?**

Some countries do not expressly exclude any type or category of material from the obligation of legal deposit. These countries include the following: Argentina, Armenia, Bahrain, Belize, Bhutan, Brazil, Burundi, China, Colombia, Costa Rica, Czech Republic, Ecuador, Hungary, Jamaica, Liechtenstein, Luxemburg, Mali, México, Montenegro, Mongolia, Pakistan, Peru, South Africa, Spain, Sri Lanka, Trinidad & Tobago and Ukraine.

In the majority of countries, it is common to have in place some sort of exemptions for certain kind of material. Some examples of most commonly excluded material are: fine art works and manuscripts, confidential documents or documents containing secrets, commercial advertising material, and material republished with slight changes and in limited or numbered copies.

**36. Is there any specific regulation in regard to material published in electronic format? If so, does the regulation distinguish between on-line and off-line material? Please clarify relevant differences.**

In most of the responding States, there are no different rules for works published online and off-line. The same conditions and rules provided for hard copy works are also applicable to electronic formats.

The differences lie in the procedure for collection of the material concerned. Off-line material must be submitted in physical form; while in the case of on-line material, the various depository bodies may need to collect the material directly. A good example is represented by the Legal Deposit Law of Latvia, which requires freely accessible online publications be harvested and archived automatically by the National Library of Latvia. Publishers of online publications of restricted access shall grant access to an online publication for the National Library of Latvia in order for this institution to obtain a copy of the publication.

In some cases, electronic material is not subject to deposit. For instance, in China, electronic publishing entities are required to submit only the offline media samples. In Japan, there are provisions regarding materials published in electronic format. The provisions distinguish between on-line and off-line material. On-line material is not subject to legal deposit but there is a provision which stipulates that part of the on-line materials such as the Internet resources of the national government, local governments and independent administrative agencies, etc. can be collected by recording in the form of memory for the use of the National Deposit Law. In New Zealand, legal deposit system does not apply to "Internet Documents", which are defined as a "public document that is published on the Internet, whether or not there is any restriction on access to the document and this includes the whole or part of a website". Nevertheless, legal deposit applies to electronic documents made available offline.

**37. How many copies does the depositor have to deposit? Are there special conditions for limited or deluxe editions?**

National legislations provide for very different solutions in regard to the number of copies to be deposited. The number of copies required by each body can be accessed in [Annex B.2](#).

Although in a few countries limited or *deluxe* editions are subject to exemption or to a deposit of only a reduced number of copies (e.g. Algeria, Ecuador, Spain, United States); usually national legislations lack specific provisions on this issue.

**38. Who is/are the subject/subjects responsible for delivering the legal deposit?**

Generally speaking, the subject(s) or entities responsible for delivering the legal deposit are the publishers, producers and distributors, in addition to the copyright holders.

**39. What are the time requirements for legal deposit?**

The time requirements for legal deposit vary among different countries, and it also depends on the subject matter of deposit. The deadlines for the deposit range from one day to ten years after the production/printing of the concerned material. In other cases, the legal deposit must be fulfilled before distribution of the works. Detailed time requirement of each respondent depository body can be found in the corresponding response ([Annex B.2](#)).

**40. Is there a payment or compensation involved in legal deposit? If so, please indicate its amount.**

In the vast majority of countries, the legal deposit is obtained for free and does not imply any economic obligation for the depository body. In a few countries such as Jamaica, Japan, Republic of Korea, legislation provides for compensation, usually established around 50 per cent of the retail price. A further exception is represented by countries, such as Kenya, where the depositor is required to pay a price for obtaining the deposit.

Furthermore, some countries (e.g. Austria and Norway) where the deposit is generally for free may provide for a sort of compensation in punctual cases, such as when a depository body is planning to keep a copy of very expensive editions and is required to refund a fraction of the resale price.

**41. What is/are the entity/entities responsible for acting as legal depository?**

In most of the cases, the entity/entities responsible for acting as legal depository body/bodies are the competent national authorities which have been established by Government to act as legal depository entity/entities. Full contact details of each depository body and their functions can be accessed in the corresponding response ([Annex B.3](#)).

**42. Does the general public have access to legally deposited materials? If so, please explain under which terms and conditions.**

In a number of countries, the general public has access to the legally deposited material and this access is usually for free. These countries include the following: Albania, Argentina, Austria, Bahrain, Republic of Belarus, Belize, Brazil, Burundi, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Ecuador, Finland, Ghana, Greece, Guinea, Hungary, Ireland, Jamaica, Japan, Italy, Kenya, Republic of Korea, Latvia, Liechtenstein, Lithuania, Luxemburg, Madagascar, México, Republic of Moldova, Mongolia, Montenegro, Namibia, Nepal, New Zealand, Norway, Pakistan, Peru, Russia, Serbia, Singapore, South Africa, Spain, Sweden, Thailand, Ukraine, United Kingdom and the United States of America. In such instance, legally deposited materials are considered as the repertoire of the National Library or the relevant authority, the general terms and conditions of each authority apply.

On the contrary, the legislation of a few countries, such as Algeria, Armenia, China, Guatemala, the Kingdom of Saudi Arabia, Mali, Oman and Romania, do not allow the general public to access to legally deposited materials. Legislations of other countries, such as Trinidad & Tobago, do not state whether the general public has access to legally deposited materials.

**43. Do/does the depository/depositories provide publicly available search facilities? If so, are they accessible on-line?**

In a number of countries, both off-line and on-line search facilities are available for free to the public accessible on-line. These countries include the following: Albania, Argentina, Austria, Brazil, Chile, Colombia, Croatia, Czech Republic, Denmark, Ecuador, Finland, Greece, Hungary, Jamaica, Ireland, Italy, Japan, Republic of Korea, Latvia, Liechtenstein, Lithuania, Luxemburg, Republic of Moldova, Montenegro, Namibia, Nepal, New Zealand, Russia, Norway, Serbia, Singapore, South Africa, Spain, Sweden, Thailand, Trinidad & Tobago, United Kingdom and United States of America. For detailed web address of each depository body, see the corresponding response ([Annex B.3](#)).

In other countries, including Algeria, Bahrain, Burundi, Ghana, Kenya, México, Mongolia, and Peru, publicly available search facilities are accessible only off-line.

On the other hand, countries like Armenia, Republic of Belarus, Belize, China, Guatemala, Guinea, Mali, Oman, Pakistan, Romania and Ukraine, do not provide publicly available search tools. In Costa Rica and Madagascar, general public access depends on the rules of the different depository authorities. In the Kingdom of Saudi Arabia, the general public has access only to the bibliographic information of the legally deposited materials.

**44. Is legal deposit linked to any number or code? Is there any relation with the International Standard Books Number (ISBN) with the International Standard Serial Number (ISSN) and other such codes?**

In the following countries, there is no relation between legal deposit and ISBN or ISSN: Algeria, Armenia, Austria, Republic of Belarus, Belize, Chile, China, Colombia, Czech Republic, Denmark, Ecuador, Finland, Guatemala, Guinea, Hungary, Jamaica, Japan, Italy, Liechtenstein, Mali, México, Republic of Moldova, Monaco, Mongolia, Norway, Oman, Pakistan, Peru, Spain, Sweden, Thailand, Trinidad & Tobago and Ukraine.

In Albania and Argentina, all registered printed works are linked to the ISBN, while there is no ISSN requirement for periodical publications.

In Bahrain, Brazil, Burundi, Costa Rica, Croatia, Ghana, Greece, Ireland, Kenya, the Kingdom of Saudi Arabia, Republic of Korea, Latvia, Lithuania, Montenegro, Namibia, Nepal, Romania, Russia, Serbia, Singapore and South Africa and the United States of America, the legal deposit is linked to the International Standard Books Number ISBN. In a number of countries, there is also a relation with the ISSN and other codes. The details can be accessed in the corresponding response ([Annex B.4](#)).

**45. Please provide statistics on the number of deposits per year for the following items (last five years); a) print material; b) musical works; (c) audiovisual works.**

Statistics on the number of deposits for the items (a, b & c) over the last five year are presented below:

(a) Print materials:

COUNTRY/YEAR	2005	2006	2007	2008	2009	TOTAL
Albania	12689	11865	14487	14660	18327	72028
Algeria	8084	10565	10832	14270	19734	63485
Argentina	8368	5314	8140	8323	7756	37901
Austria				22056	21059	43115
Bahrain	259	224	265	339	263	1350
Bhutan						1875
Brazil			98379	95504	100358	294241
China	190000	195000	200000	210000	220000	1015000
Colombia	60865	54482	60628	52961	62480	291416
Ecuador		289	291	231	220	1031
Ghana	223	172	174	233	137	939
Guinea						12
Hungary	82756	85148	85528	89089	83564	426085
Italy	249792	234348	328676	224246	343293	1380355
Jamaica	261	318	355	287	292	1513
Japan	548383	574470	562163	564311		2249327
Korea	234193	236832	259505	273383	268683	1272596
Moldova	2386	2850	2760	2711	2246	12953
Monaco			774	715	474	1963
Mongolia	5944	6329	6243	6175	3640	28331
Montenegro						8902
Nepal						509
Norway	49788	59379	52455	53766	49540	264928
Oman						600
Pakistan						10000
Peru	7399	8051	8570	10063	12131	46214
Serbia	64390	62974	69544	72729	67426	337063
Singapore	3963	5502	7072	3796	4601	24934
South Africa	75752	76527	85186	86588	84158	408211
Spain	144913	133189	138563	164178	132291	713134
Sweden	324309	310799	318072	304440	297959	1555579
Thailand	22386	25795	41600	58421	65777	213979
UK	495365	544800	536617	537351	550748	2664881
Ukraine	1588	1862	2018	1861	2201	9530
US	438637	427232	446824	182768	310691	1806152

## (b) Musical works:

COUNTRY/YEAR	2005	2006	2007	2008	2009	TOTAL
Argentina	6316	6890	8465	12220	10944	44835
Bahrain	253401	262125	271309	271934	273695	1332464
Bhutan						80
Colombia	475	951	484	717	690	3317
Ghana	709	634	575	499	499	2916
Guinea						1944
Hungary	403	344	306	311	284	1648
Italy	1755	1073	983	837	1271	5919
Jamaica	40	65	54	72	59	290
Japan	15492	16673	15520	16173		63858
Korea	10979	12860	14072	15424	10138	63473
Mali						4847
Montenegro						5
Nepal						39
Norway	665	542	958	1218	2210	5593
Oman						6
Serbia	95	87	101	120	90	493
South Africa		160	175	789	5069	6193
Spain	8315	7868	6991	5396	5954	34524
Sweden	6108	5608	5967	5474	5718	28875
Ukraine	610	685	777	707	1044	3823
US	65820	67153	69186	31279	55161	288599



## (c) Audiovisual works

COUNTRY/YEAR	2005	2006	2007	2008	2009	TOTAL
Albania	13		10			23
Argentina	729	87	303	159	546	1824
Bahrain	372465	389567	401692	445723	486936	2096383
Bhutan						75
Brazil			1683	1954	2352	5989
China	3784	6681	11028	17896	12676	52065
Colombia	144	2	55	328	295	824
Ghana	50	19	27	53	62	211
Guinea						337
Hungary	2869	2025	2161	2515	1513	11083
Italy	2798	3271	12104	11048	8596	37817
Jamaica	5	2	10	24	10	51
Japan	9480	9093	9926	11068		39567
Korea	21812	27124	29300	30352	38511	147099
Montenegro						197
Nepal						8
Norway	60288	58816	93066	141635	136075	489880
Oman						10
Serbia		2875	3264	4123	2700	12962
Singapore	150	20	352	83	219	824
South Africa	275	300	110	290		975
Spain	6544	7270	10048	8501	7015	39378
Sweden	50140	70369	80509	72415		273433
Ukraine	78	70	94	91	89	422
US	182616	163504	180297	95691	132386	754494

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