

QUESTIONNAIRE

A. COPYRIGHT REGISTRATION AND RECORDATION

1. What is the name and the legal status of the copyright registering/recording body in your country?

Answer 1. The legal status of the copyright registering/recording body in Albania is Albanian Copyright Office (ACO).

2. Please provide full contact details of the copyright registering/recording body, including location of its offices, with indication of the hours they open to the public.

Answer 2. Address: Rruga: “Abdi Toptani”, ish- MTKRS, kati III, Tiranë;

Tel: 04 2 67 08

The office is open to the public from 12:00 PM to 2:00 PM every working day.

3. Does the copyright registering/recording body have a webpage and E-mail address? If so please list them?

Answer 3: Yes, Copyright Office does have a webpage and e-mail address.

Website: www.zshda.gov.al; E-mail: copyrightalbania@gmail.com;

4. Is the Copyright registry interconnected to any other copyright data system?

Answer 4. No. There is no interconnection system of copyright data to other systems.

5. Please list relevant national legislation, including regulations regarding copyright recordation/registration?

Answer 5.

- Law Nr.9380, of 28.04.2005, “On Copyright and Related Rights”;
- Decision of Council of Ministers No. 232, date 19.04.2006 “On the establishment and operation of the Albanian Copyright Office (ACO)”;

- Decision of Council of Ministers No. 343, date 06.06.2007 “On the approval of the tariffs for the services provided by Albanian Copyright Office”, amended;
- 6.** What kind of copyright works can be registered/recorded? Is the registration/recordation process different for each type of work? Please describe the differences if any.

Answer 6: Articles 7 and 8 of the Albanian Copyright Law, Nr 9380, of 28.04.2005 foresee the categories of the works which can be registered and recorded by ACO. Find below the respective Articles of Albanian Copyright Law.

THE OBJECT OF THE COPYRIGHT

ARTICLE 7

The object

The object of the copyright in the field of literature, art or science, product of creative work of human mind, without taking into account the way of creation, means or practical forms of expressions and apart from their values or destinations are:

- a. the literary and newspaper writings, lectures, religious prayers as well as any other oral or written creation, and the computer programs;
- b. oral and written scientific creativity, such as for example: the scientific lectures, studies, university lectures, teaching books, the scientific projects and documentation;
- c. musical compositions, either in written or oral form;
- d. drama creations, drama-musical creations, choreographic creations and the pantomimes;
- e. cinematographic and other audio-visual creations;
- f. photographic creations and any other kind of creation expressed in forms similar to photos;
- g. creations of fine arts;
- h. applied art works;
- i. architectural creations, including designs, projects, tracing in a diminution scale and graphical creations in the architectural projects;
- j. three-dimensional creations, maps and drawings in the topography, geography fields, and in the field of science in general.

ARTICLE 8

The derived works

1. The following shall also be considered object of copyright:

a) The derived works, which, without prejudice to the copyright of an author's work originates from one or some other works existed in the past, particularly: translations, adaptations, illustrations, documentary creations, musical arrangements, and any kind of transformation of a literary, artistic or scientific work that is a product of the creative mind operation.

b) Collections of works, contributions, databases or other materials which, because of selection or arrangement of their contents, constitute the author's own intellectual private creation, shall be protected as such by copyright. This protection is not applicable for the content of the collection and does not harm the existing rights on the content.

2. The protection of a database work is not applicable over computer programs being used in making or operating the databases accessible by electronic means.

7. Can the subject matter of related rights (e.g., performances, broadcasts, sound recordings) also be registered/recorded? If yes, is there a different registration/recording process than for works protected by copyright?

Answer 7: Yes the subject matter of related rights is registered by ACO and it goes through the same process as works protected by copyright.

8. Is there a possibility to record the transfer or licensing of copyright/related rights?

Answer 8: Yes it is provided by Copyright Law and the Decisions of the Council of Ministers the registration of the licenses or the transfer of rights form the author/owner to the right holder.

9. Is there a possibility to record a security interest in the copyright or related rights? If so what are the legal requirements and effects of such recordation?

Answer 9: It is not possible to record a security interest under copyright law in Albania.

10. What is the legal effect of registration?

Answer 10: The legal effect of registration is the recognition of the right holder and the guaranty of the right to remuneration for works object to copyright and related rights (the registration of the authorizations/licenses issued by the collective management agencies to the users of the repertoire they represent and manage.

11. Is copyright registration/recordation mandatory or voluntary in the following circumstances?

a. Recognition of creation?

Answer a: The recognition of creation is not mandatory.

b. Transfer of rights?

Answer b: Registration/recordation is mandatory in cases of transfer of rights.

c. Initiation of judicial proceedings?

Answer c: No, it is not mandatory for the initiation of a judicial proceeding.

d. Other changes in title/ownership (such as leasing)?

Answer d: It is not mandatory.

e. If your country has a mandatory registration/recordation system, please describe any legal consequences for non-compliance.

In cases of mandatory registration, mentioned above ACO applies fines to the entities or individuals that do not fulfill the requirements of registration.

12. Do courts of your country recognize copyright registrations affected by public authorities in other countries? If yes, is recognition automatic or is a local procedure required to validate or otherwise give effect to the foreign registration.

Answer 12: Based on judicial processes in which participated Albanian Copyright Office, the latter has no information if such case is presented, where a copyright registration is affected by public authorities in other countries. Anyway, according to the requests provided in civil procedural code for the submission to the court of the evidences in judicial process, the documents issued by foreign public authorities must be submitted as a legalized copy and translated in Albanian. It is not required to submit the documents unified by Albanian authority with similar activity with that has issued the original document.

According to Albanian copyright legislation, the registration of copyright it is not an obliged procedure and it serves to evident the name of the author and the title of work, in the register held by Albanian Copyright Office.

13. What are the requirements for registration?

a. What are the mandatory elements of the request for registration/recording?

Answer 13/a: Mandatory elements of the request for registration/recording are provided in the Albanian Copyright Law and for each category of right, as copyright and/or transfer of rights.

The forms filled out with personal information of the author, the category of works, the title, the date and place of publishing works and the fee payable are the core elements for the copyright registration. For the category of transfer of rights the mandatory elements are: the contracts, the deposit in case of phonograms, and the fee payable.

b. Does the request need to be submitted in a specific form?

Answer 13/b: Yes the request need to be submitted in a specific form according to the abovementioned categories (see Article 13/a).

c. Can the request be submitted by the post?

Answer 13/c: Yes, the request can be submitted by post as well.

d. Can the request be submitted electronically?

Answer 13/d: No, the request can not be submitted electronically.

- e. Is there a deposit requirement, that is, must a copy of the work be submitted with the registration request? If so, can it be submitted in the digital form?

Answer 13/e: Yes, there is a deposit requirement and it can be submitted in a digital form, in cases of phonogram deposit, computer programs, and databases.

- f. Is there a registration/recordation fee? If so how much is the registration/recordation fee?

Answer 13/f: Yes, there is a registration fee, and the fee is 1000 ALL (equivalent of 10 US).

- g. What is the average taken to complete the registration/recordation process?

Answer 13/g: The legal term to complete the registration process is 30 days.

- 14.** Are foreigners allowed to register/record their creations?

Are people without legal residence in your country allowed to register/record their creations?

Answer 14: Yes, Albanian Copyright Law provides for the foreigners to register and record their creations in the Article 3 and Article 134 of the Albanian Copyright Law. The procedure of registration/recordation is the same as to Albanian authors but there is a condition for the foreign authors provided in Article 3 which states that the works of foreign authors must be made available the public in Albania 30 days before they apply for registration/recordation. Therefore, foreign authors exercise the same right as Albanian authors according to Albanian Copyright Law and International Agreements in which Albania is a member.

- 15.** Are the files stored in digital forms?

Answer 15: No, the files are stored only in hard copy.

- 16.** What criteria are followed for classification of the registrations/recordation's (including chronology, name of right owner/name of work or subject matter of related right, etc)?

Is it possible to correct or update relevant information?

Answer 16: The criteria followed for the classification of the registration/recordation is the division of the works into categories. Therefore, based on the Article 7 of the Albanian Copyright Law which provides for the works subject to copyright, the office has issued standard forms for each category of artistic, literary and scientific works. These forms include the chronology, title of the work, identification of the owner and/or right holder, the publishing or making available to the public date, addresses.

Yes, it is possible to correct and update the relevant information and it is provided by the Decision of the Council of Ministers Nr. 232 date 19.04.2006.

17. Does the system have a search facility?

Answer 17: No. The system does not have a search facility.

18. Is it accessible by the public? Is the search facility available online?

Answer 18: There is no search facility.

19. Is access granted to the work registered or its copies?

Answer 19: There is no digital system which would guaranty access to electronic information on registered works.

20. Does the general public have access to other documents submitted or to any information regarding the work registered or its copies?

Answer 20: Yes. The general public and the interested parties have access to the documents submitted in the Albanian Copyright Office or other information related to the works registered.

21. Does your country have legislation dealing specifically with “orphan works”, i.e. works in respect of which the right owner can not be identified and/or located (e.g., a compulsory license or a limitation on liability)? Please briefly describe the main elements of that legislation.

Answer 21: Albanian Copyright Law provides for the “orphan works” in the Article 5, point 3 which states: “In cases an orphan work is made available to the public anonymous or under pseudonym, the copyright is exercised by the person/entity which is responsible for making available to the public the work, as long as the author is not found or does not reveal his/her identity.

- 22.** Independently of whether your country has legislation on the subject, are there industry practices in your country aimed at identifying and/or locating the copyright owner of “orphan works”?

Answer 22: No. There is not such a practice in Albania.

- 23.** Does the registering/recording body play a relevant role in the legislation or practice dealing with “orphan works”?

Answer 23: It is not foreseen in Albanian Copyright Law and the office has never dealt with such a case (orphan work).

- 24.** Is there a system to identify and list recorded/registered works or objects of related rights in the public domain? Is that system automated? Is that information made available to the public?

Answer 24: There is no system for the identification of the recorded/registered work or objects of related rights in the public domain.

- 25.** If your country has a public registration/recording system, do private institutions or initiatives exist that provide additional mechanisms to access registered/recording information from the public system?

The collection of literary, artistic and scientific work is done by public or private institutions (archives) that manage and establish archives according to the category of works. The rules and procedures for the administration of literary, artistic and scientific values are foreseen in the Law Nr. 9154, date 06.2003 “On Archives” and the secondary legislation.

- National Library foresees the deposit of 5 (five) mandatory copies of printed materials published in the Republic of Albania and their inventory in the archives of the institution.

- The legal deposit of cinematographic works, according to the Law No 8096, date 21.03.1996 “On Cinematography” changed with the Law No 9353, date 03.03.2005, and the Statute of the National Film Center is mandatory for every movie/film produced in the Republic of Albania.
- Law No 9048, date 07.04.2003 “On Cultural Heritage” and other legal Acts, the Statute of the National Inventory Center of Cultural has a mandatory legal deposit system.

26. Please provide statistics on following registrations/recordations?

- a) Number per statistical period (last five years)
- b) Number per nationality (last five years)
- c) Number of inquiries/requests for information filed per statistical period (last five years)
- d) Number of recordation/registrations whose subject matter has entered the public domain. Global figure/figure per statistical period (last five years)

Answer 26: Statistics are provided in the last question’s answer (answer 44).

B. LEGAL DEPOSIT

27. Does your country have a legal deposit system/systems in place? Please list relevant national legislation regulating the legal deposit.

Answer 27: Yes, Albania does have a legal deposit system in place and it is provided in the Article 60/2, Law Nr. 9380, date 28.04.2005 “On Copyright and Related Rights”.

28. Is the legal deposit mandatory or voluntary in your country? If, mandatory, what are the consequences in case of non compliance?

Answer: The legal deposit is mandatory in cases of phonograms as provided in Law Nr. 9380, date 28.04.2005 “On Copyright and Related Rights” and other national Legal Acts (ref. answer 25)

29. What are the functions performed by your national legal deposit system (e.g. preservation of cultural heritage; collection of statistic information, etc)?

Answer 29: The main functions are:

- The recognition of the copyright and other related rights in regard to the distribution of the authorized copies of phonograms.
- The collection of statistic information and to create a database on registered and certified work by ACO.
- Preservation of cultural heritage, publication of national bibliography, library users' service, statistical information.

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

Answer 30: Yes, there is a connection between legal deposit and copyright protection. The Copyright Office through its inspectors in the field verifies the legal title of works distributed and whether the distributors have the authorization from the author and/or right holder. The phonograms distributed in Albania or other countries should have the Artistic Stamp of Albanian Copyright Office before their distribution in the market place, and this is the duty of the producer. Phonograms distributed in the market without authorization of author and/or right holder, and without the Artistic Stamp of ACO are seized by tax officers and ACO applies fines for the producers or distributors. Furthermore, Albanian Copyright Law foresees the right to further proceedings before the court.

31. 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?

Answer 31: No.

32. 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 publications; Non-Print Materials, such as music and audio-visual works, broadcast materials).

Answer 32: Object of legal deposit for ACO is twofold: the mandatory legal deposit which is the phonogram in cases of transfer rights and the voluntary legal deposit which are printed materials, books, serials, non printed materials as audio-visual works, broadcast materials, and pictures of fine arts by the authors.

Materials subject to legal deposit for Albanian National Library are: books, government publications, booklets, flyers, posters, maps, atlases, scores, etc., on print and electronic format.

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

Answer 33: a) No. Every work which according to the Albanian Copyright Law will be distributed in the market place, as authorized copies of the original work has to firstly fulfill the obligation of legal deposit according to Article 60 of the Law No. 9380, date 28.04.2005 “On Copyright and Related Rights” and the Law No. 9616, date 27.09.2006 “On Books in the Republic of Albania”.

b) Yes. The first legal publication of the work and the distribution of the copies made from it by the right holders have to accomplish all requirements on the legal deposit, despite the fact that the work is distributed in Albania or abroad. For the fine art works created by Albanian native artist or residents in the Republic of Albania, works that are subject to the distribution outside the country have to be registered according to the Law No 9048, date 07.04.2003 “On Cultural Heritage” and get the passports, provided by the National Center of Cultural Heritage Inventory, the institution that promote and protect national cultural values.

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

Answer 34: Fine art works are excluded by the legal deposit.

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

Answer 35. There are not different rules for the electronic format works. There are the same conditions and rules as provided for hard copy works. The online deposit of works is not applied in Albania.

- 36.** How many copies does the depositor have to deposit? Are there special conditions for limited or *de luxe* editions?

Answer 36: The depositor has to deposit only one copy of the work to ACO and **5 (five)** mandatory copies to the National Library. There is not any special condition regarding limited or *de luxe* editions.

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

Answer 37: The responsible entities or subjects are: the publisher, the producer of the phonograms, and the first producer of the film.

- 38.** What are the time requirements for legal deposit?

Answer 38: The legal deposit in the respective institutions as provided by national legislation should be submitted before distributing the phonograms, printed materials, and not later than one month from the issuing date.

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

Answer 39: No, there is no payment or compensation involved in legal deposit.

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

Answer 40: Albanian Copyright Office, Albanian National Library, and National Films Archive.

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

Answer 41: Yes, as provided by the Law No 8503, date 30.06.1999 “On the right to information on official documents” the general public have access to legally deposited materials. Legally deposited materials are part of National Library collection, so users have access to them. If the material is only in one copy, it must be used in the reading room under the surveillance of librarian.

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

Answer 42: Yes. Search facilities are accessible online.

- 43.** 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?

Answer 43: The legal deposit is linked to ISBN. ISSN is not yet applied for serial publications in Albania.

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

Answer 44: Number of deposits per year (National Library)

2005

Books	2361 titles	11177 items
Periodicals	628 titles	1512 items
Audiovisual works	3 titles	13 items

2006

Books	2198 titles	10611 items
Periodicals	773 titles	1254 items

2007

Books	2815 titles	13307 items
Periodicals	498 titles	1180 items
Audiovisual works	2 titles	10 items

2008

Books	2647 titles	12899 items
Periodicals	680 titles	1761 items

2009

Books	2893 titles	14225 items
Periodicals	1641 titles	4102 items

Number of legal deposit from 2007 when Albanian Copyright Office was established until 2009.

2007

Registration of transfer of rights 471 legal deposits.

Registration of copyright 41 legal deposits.

2008-2009

Registration of transfer of rights 341 legal deposits.

Registration of copyright 34 legal deposits.

Number of legal deposits per year from National Film Centre.

2005

2 feature film, total reels = 7 (seven) positive reel – 7 negative reel – 7 (seven) fono reel.

2 (two) animation films (total reels = 2 positive reels – 2 negative reels – 2 fono reels)

7 (seven) documentaries in digital format.

2006

3 feature films (total reels = 16 positive reels – 10 negative reels – 10 fono reels)

4 animation (total reels = 4 positive reels – 4 negative reels – 4 fono reels)

2007

1 feature film (total reels = 1 positive reel – 1 negative reel – 1 fono reel)

1 animation film (total reels = 1 positive reel – 1 negative reel – 1 fono reel)

2008

5 (five) feature films (total reels = 22 positive reel – 1 negative reel – 1 fono reel)

1 (one) animation film (total reels = 1 positive reel – 1 negative reel – 1 fono reel)

7 (seven) short films in digital format.

5 (five) animations in digital format.

2009

4 (four) feature films (total reels = 18 positive reel – 0 negative reel – 0 fono reel)

1 (one) animation film (total reels = 1 positive reel – 0 negative reel – 0 fono reel)