

Permanent Mission of Austria

Geneva

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The Permanent Mission of Austria presents its compliments to the International Bureau of the World Intellectual Property Organization (WIPO) and has the honour to transmit herewith the duly completed questionnaire for Survey on Copyright Registration and Deposit Systems.

The Permanent Mission of Austria avails itself of this opportunity to renew to the International Bureau of the World Intellectual Property Organization (WIPO) the assurances of its highest consideration.

Geneva, 14 May 2010



World Intellectual Property Organization (WIPO)

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**WIPO Questionnaire for Survey  
on Copyright Registration and Deposit Systems**

**Austrian Response**

**A. COPYRIGHT REGISTRATION AND RECORDATION**

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

There is no public copyright registration system in Austria.

However, like in Germany the authors of works which have been published as anonymous or pseudonymous works can be recorded. The only purpose of this voluntary registration is to apply the regular duration of copyright protection to anonymous and pseudonymous works.

This registry is kept by the Federal Ministry of Justice.

**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 public.**

Federal Ministry of Justice  
Palais Trautson  
Museumstraße 7  
1070 Wien

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

There is no information about the register on the webpage of the Federal Ministry of Justice: <http://www.bmj.gv.at/>

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

No

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

The relevant provisions of the Austrian Copyright Act read as follows:

**“Register of Authors**

**61a.** Within the term specified in Article 61, the true name of the author (Article 10(1)) may be notified, by the author himself or by the person upon whom the copyright has devolved after his death, to the Register of Authors maintained by the Federal Minister for Justice. Upon such notification, the term of protection shall be computed in accordance with Article 60.

**61b.**-(1) Notification shall be made in writing. Each notification shall include the type and title of the work or other designation, the time, place and method of publication, the author's designations used hitherto, the forename and surname of the author (Article 10(1)), and the forename and surname, occupation and place of residence of the person making the registration. A notification may cover more than one work attributed to the same author.

(2) The registration shall be made by the Federal Minister for Justice without verification of the entitlement of the person making the notification to do so or of the correctness of the facts notified; it shall in any event contain the particulars required under paragraph (1). Where the notification also states the day and place of birth or death of the author, or his nationality, such particulars shall also be entered.

**61c.**-(1) The registration shall be publicly announced in the *Amtsblatt zur Wiener Zeitung* at the expense of the person making the notification.

(2) Any person may consult the Register of Authors and request officially certified abstracts, or request a certificate to the effect that a specific work has not been entered in the Register of Authors.”

**6 What kind of copyright works can be registered/recorded? Is the registration/recordation process different for each type of copyrighted work? Please describe the differences, if any.**

Only the authors of works which have been published as anonymous or pseudonymous works can be registered.

**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/recordation process than for works protected by copyright?**

No

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

No

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

No

**10. What is the legal effect of registration?**

Registration and the following publication have the effect that the term of protection runs from the death of the author instead of the first publication.

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

**(a) Recognition of creation?**

**(b) Transfer of rights?**

**(c) Initiation of judicial proceedings?**

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

**If your country has a mandatory registration/recordation system, please describe any**

**legal consequences for non-compliance.**

In Austria, there is neither a mandatory nor a voluntary copyright registration in the mentioned circumstances. See answer to question 1.

**12. Do courts in 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?**

As Austria does not provide for registration requirements there are no circumstances in which such recognition would be necessary. However a registration made by foreign authorities can be accepted as evidence.

**13. What are the requirements for registration?**

**(a) What are the mandatory elements of the request for registration/recordation?**

Each notification shall include the type and title of the work or other designation, the time, place and method of publication, the author's designations used hitherto, the forename and surname of the author (Article 10(1)), and the forename and surname, occupation and place of residence of the person making the registration.

**(b) Does the request need to be submitted in a specific form? Can the request be submitted by the post? Can the request be submitted electronically?**

Notification shall be made in writing. Usually the request is submitted by the post.

**(c) 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 digital form?**

There is no deposit requirement.

**(d) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?**

There is no registration fee. However, the applicant has to pay for the publication of the registration in the official gazette.

**(e) What is the average time taken to complete the registration/recordation process?**

Two weeks for a well founded application.

**14 Are foreigners allowed to register/record their creations? Are people without legal residence in your country allowed to register/record their creations? Is there a different registration/recordation process for domestic as opposed to foreign works or objects of related rights?**

Foreigners have national treatment.

**15. Are the files stored in digital form?**

Yes

**16 What criteria are followed for classification of the registrations/recordations (including chronology/name of right owner/name of work or related right/type of work or subject matter of related rights, etc)? Is it possible to correct or update relevant information?**

The registration is classified according to chronology. It is not possible (nor necessary) to correct or update information.

**17. Does the system have a search facility?**

Any person may inspect the register and ask for extracts from the register. There is no publicly available or online search facility.

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

No

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

No, it is neither necessary to submit copies of the work nor are they kept with the file.

**20. Does the general public have access to other documents submitted or to any information regarding the work registered/recorded?**

Any person may inspect the register and ask for extracts from the register.

**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.**

There is no such legislation in Austria.

**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"?**

No

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

No

**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?**

No

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

No

**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)**

During the last five years there have been six applications in total.

## B. LEGAL DEPOSIT

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

Yes. For the purpose of this questionnaire, legal deposit is defined broadly as the sum of all legal provisions requiring that a person or group submit copies of their publication to an institutional repository (a library or an archive).

**28. Please list relevant national legislation regulation the legal deposit:**

The Federal Act dated 12<sup>th</sup> June 1981 on the Press and other Publication Media (Media Act) [Bundesgesetz vom 12. Juni 1981 über die Presse und andere publizistische Medien (Mediengesetz - MedienG), BGBl. 314/1981] regulates amongst others a legal deposit system. The German Version of the Media Act can be found here: <http://www.ris.bka.gv.at/>.

In addition to the Media Act a legal ordinance (the so called Pflichtablieferungsverordnung, BGBl. II Nr. 271/2009) provides special provisions.

According to § 59 Universities Act 2002 (Universitätsgesetz 2002, BGBl. I Nr. 120/2002) students have the duty to deliver a copy of their diploma or master's thesis, or a documentation of their artistic diploma or master's submission to the university library and a copy of their dissertation to the Austrian National Library.

Pursuant to § 8 (3) Federal Law Gazette Act (Bundesgesetzblattgesetz, BGBl. I Nr. 200/2003) at least three backup copies and four certified printouts shall be made of each document containing legislation (i.e. Federal Law Gazette: for example acts as adopted by the National Council, general resolutions of the Federal President or state treaties). One backup copy and certified printout each shall be delivered to the Austrian National Archive and to the Austrian National Library to be filed there. One certified printout shall be forwarded to the Library of Parliament.

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

It is mandatory. Anyone who does not comply with the duty to deliver or offer commits an administrative offence punishable with a fine of up to 2.280 EUR by the district administration authority having jurisdiction for the place of publication or of production, or by a Federal police authority in case it has local jurisdiction (See § 45 Media Act).

**30. What are the functions performed by your National legal deposit system?**

The Media Act itself refers to this point in one of its provision (§ 43 Media Act). In determining the libraries and the number of copies, the tasks of filing and of



information and the interests of science, research, education and teaching as well as the federal structure of the Republic of Austria shall be taken into account.

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

The Austrian Copyright Law and its provisions (Urheberrechtsgesetz, BGBl. Nr. 111/1936) have to be considered.

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

According to § 42 (7) Austrian Copyright Law 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”). A published work may be copied in several copies on condition that the work is out of print or has not been distributed in a 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.

**33. What is the object of legal deposit? Please list all types or categories of material subject to legal deposit.**

Media Act:

1. print media published or issued on the domestic market (§ 43 Media Act)
2. other media products with the exception of sound carriers and carriers of moving pictures (§ 43a Media Act)
3. media content of periodical electronic media products (at.- domain or with a reference to Austria with regards to contents - § 43b Media Act). The authorized recipient is in this case the Austrian National Library.

Universities Act 2002:

According to § 59 Universities Act 2002 (Universitätsgesetz 2002, BGBl. I Nr. 120/2002) students have the duty to deliver a copy of their diploma or master's thesis, or a documentation of their artistic diploma or master's submission to the university library and a copy of their dissertation to the Austrian National Library.

Federal Law Gazette Act:

Pursuant to § 8 (3) Federal Law Gazette Act (Bundesgesetzblattgesetz, BGBl. I Nr. 200/2003) at least three backup copies and four certified printouts shall be made of each document containing legislation (i.e. Federal Law Gazette: for example acts as adopted by the national Council, general resolutions of the Federal President or state treaties). One backup copy and certified printout each shall be delivered to the Austrian National Archive and to the Austrian National Library to be filed there. One certified printout shall be forwarded to the Library of Parliament.

**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?**

§ 43 Media Act states that the object of legal deposit is each print media product published or issued on the domestic market. The obligation to offer and deliver legal deposit material (within 1 month of distribution) is usually the responsibility of the media owner (which is mostly equivalent to the editor). In case there is no domestic editor and the print media product is distributed abroad (but has been produced in Austria), legal deposit has to be made by the (domestic) producer (within 1 month of production).

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

Sound carriers and carriers of moving pictures (movies or cinematographic products) are exempted due to competence issues.

**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.**

§ 43a Media Act states that also other media products, with the exception of sound carriers and carriers of moving pictures (movies and cinematographic products) are subject to the obligation to offer and deliver copies. Media products which, as electronic data carriers through technical processing of printed products contain also representations in word, sound or moving pictures besides written data or still images, are subject to media owner's (publisher's) duty to offer and deliver copies.

According to § 43b Media Act the Austrian National Library is authorized to collect media content of online material (i.e. content of "periodical electronic media products") available at an at.- domain or with a reference to Austria with regards to it's content under special conditions. Also the media owner has to deliver this type of media content to the Austrian National Library if the access to the content is restricted and cannot be collected by the Austrian National Library.

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

	Periodical print media	Other print media products
<b>Burgenland</b>		
Austrian National Library	2	2
Burgenländische Landesbibliothek	3	2
Vienna University Library	2	1
<b>Kärnten</b>		
Austrian National Library	2	2
Kärntner Landesbibliothek	2	1
Universitätsbibliothek der Universität Klagenfurt	3	2
<b>Niederösterreich</b>		
Austrian National Library	2	2
Niederösterreichische Landesbibliothek	3	2
Vienna University Library	2	1
<b>Oberösterreich</b>		
Austrian National Library	2	2
Oberösterreichische Landesbibliothek	3	2
Universitätsbibliothek Linz	2	1
<b>Salzburg</b>		
Austrian National Library	2	2
Salzburger Landesarchiv (Bibliothek)	2	1
Universitätsbibliothek Salzburg	3	2
<b>Steiermark</b>		
Austrian National Library	2	2
Steiermärkische Landesbibliothek	2	1
Universitätsbibliothek Graz	3	2
<b>Tirol</b>		
Austrian National Library	2	2
Tiroler Landesarchiv (Bibliothek)	2	1
Universitäts- und Landesbibliothek Tirol	3	2
<b>Vorarlberg</b>		
Austrian National Library	2	2
Vorarlberger Landesbibliothek	3	2
Universitäts- und Landesbibliothek Tirol	2	1
<b>Wien</b>		
Austrian National Library	2	2
Wienbibliothek im Rathaus	2	1
Vienna University Library	3	2

There is a special provision for limited or de luxe edition. In this case instead of the normal deposit one piece of the limited or de luxe edition has to be delivered to the Austrian National Library and the concerned Laender Library. Reimbursement rules apply (i.e. if the receiving library does not return the legal deposit item, of which the resale price above 145 Euros, within 6 weeks, it has to reimburse half of the resale price; see below answer to question 40 for further information).

Regarding offline material ("other media products" according to § 43a Media Act), one piece has to be delivered to the Austrian National Library and to the following libraries:

**Burgenland**

Burgenländische Landesbibliothek  
Universitätsbibliothek Wien

**Kärnten**

Kärntner Landesbibliothek  
Universitätsbibliothek der Universität Klagenfurt

**Niederösterreich**

Niederösterreichische Landesbibliothek  
Universitätsbibliothek Wien

**Oberösterreich**

Oberösterreichische Landesbibliothek  
Universitätsbibliothek Linz

**Salzburg**

Salzburger Landesarchiv (Bibliothek)  
Universitätsbibliothek Salzburg

**Steiermark**

Steiermärkische Landesbibliothek  
Universitätsbibliothek Graz

**Tirol**

Tiroler Landesarchiv (Bibliothek)  
Universitäts- und Landesbibliothek Tirol

**Vorarlberg**

Vorarlberger Landesbibliothek  
Universitäts- und Landesbibliothek Tirol

**Wien**

Wienbibliothek im Rathaus  
Vienna University Library

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

Responsible is in general the media owner. The obligation to offer and deliver is the responsibility of the producer of a print media product if it is published and issued abroad, however produced in this country.

In case of the media content of periodical electronic media product it is the Austrian National library who can collect such data (§ 43b Media Act) respectively the media owner is obliged to deposit.

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

It depends on the object but in general the object has to be offered or delivered within one month.

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

For print media products with a retail price exceeding 145 Euros the authorized recipient shall reimburse 50 percent of the retail price. For media products consisting of two or more separately sold parts, the reimbursement shall be effected for each one of these parts having a retail price exceeding the aforementioned limit.

For other media products with a retail price exceeding 72 Euros the authorized recipient shall reimburse 50 percent of the retail price. For media products consisting of two or more separately sold parts, the reimbursement shall be effected for each one of these parts having a retail price exceeding the aforementioned limit. If other media products with a retail price not exceeding 72 Euros are not returned, the authorized recipient shall reimburse to the party obligated against proof of payment any expense such party incurred for license fees paid to third parties.

For first legal deposit of media content of periodical electronic media products the Austrian National Library has to bear the costs which exceed 250 Euros. (See § 44 Media Act)

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

This is the Austrian National Library, the university, study or Laender Libraries as determined by administrative regulation (see sheet above), the library of Parliament and the administrative library of the Federal Chancellery.

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

Yes, under the provision of each library. For example for the Austrian National library see <http://www.onb.ac.at/ev/index.php>.

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

Yes. See for example <http://www.onb.ac.at/ev/index.php> (Austrian National Library). All printed works (whether published or printed in Austria) which are delivered as legal deposit copies to the Austrian National Library are included in the "A series" of the Austrian Bibliography that is published by the Austrian National Library and has been made available online since 2003 (<http://www.onb.ac.at/ev/catalogues/bibliography.htm>).

**44. Is legal deposit linked to any number or code? Is there any relation with ISBN, ISSN and other such codes?**

Not by law.

**45. Please provide statistics on the number of deposits per year for the following items: print material, musical work, audiovisual work.**

Statistics taken from the yearly report of the Austrian National Library 2009:

<b>2.3 Legal deposit copies received by the Austrian National Library (Printed Matter according to Media Act)</b>	<b>2009</b>	<b>2008</b>
Printed Matter	21.059	22.056
Musical Scores	221	226
Maps	348	470
Poster	2.235	1.727
Leaflets	1.723	1.564

Musical works and audiovisual works are not subject to legal deposit in Austria.