

QUESTIONNAIRE - CZECH REPUBLIC

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 copyright registering/recording body in the Czech Republic. The protection of author's right (copyright) a related rights in the Czech Republic is not subject to any formalities.

With the aim to improve the position (entitlement to sue) in a legal proceeding - some rightholders lodge a copy of their works/recordings etc. as a notarial deposit or as a deposit at an agency. In that cases there is no legal presumption of authorship/ownership of related rights or the right *sui generis* of the maker of a database. For the same reason there is a possibility to submit a registration made at the collective management organization. As the Copyright Act No. 121/2000 Coll. provide for legal presumption of authorship (and ownership of related rights or the right *sui generis* of the maker of a database) stating "[a]uthor shall be the natural person whose real name is indicated in a habitual manner on the work or is indicated with the work in the register maintained by the relevant collective management organization, unless proven otherwise".

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.

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

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

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

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.

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?

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

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?

10. What is the legal effect of registration?

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.

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 protection of author's right (copyright) and related rights in the Czech Republic is not subject to any formalities, the Czech courts do not require submitting the foreign registration.

13. What are the requirements for registration?
- (a) What are the mandatory elements of the request for registration/recordation?
 - (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?
 - (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?
 - (d) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?
 - (e) What is the average time taken to complete the registration/recordation process?
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?
15. Are the files stored in digital form?
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?
17. Does the system have a search facility?
18. Is it accessible by the public? Is the search facility available online?
19. Is access granted to the work registered or its copies?
20. Does the general public have access to other documents submitted or to any information regarding the work registered/recorded?
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.

Not yet. However, for some kind of uses the so-called extended collective management has been established, e.g. for broadcasting of some kind of works or for public lending. In that cases the relevant collective management organization represents not only the registered rightholder but all others who are neither registered nor represented on the basis of an agreement.

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”?

The collective management organization cooperate mainly with authors' unions and associations, with publishers etc. and with notary's offices (searching for heirs).

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

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?

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)

B. LEGAL DEPOSIT

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

Yes.

In the Czech Republic there are legal deposit systems for periodical and non-periodical publications and for the Czech audiovisual works.

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

Act No. 257/2001 Coll., on libraries and conditions of operation of public library and information services (the Library Act), as amended by several acts.

Act No. 37/1995 Coll., on non-periodical publications, as amended by the Act No. 320/2002 Coll.

Act No. 46/2000 Coll., on the rights and duties relating to the publication of periodicals and amendments to some other Acts (Press Act), as amended by several acts.

Act No. 273/1993 Coll., on some conditions of production, distribution and archiving of audiovisual works, as amended by several acts.

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

The legal deposit is mandatory in the Czech Republic. Non compliance with the relevant obligations is punished by administrative financial penalties.

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

In the case of periodical and non-periodical publications the main function of the legal deposit system is the preservation of cultural heritage. In the case of the legal deposit system of the Czech audiovisual works both the preservation of cultural heritage and collection of statistical information have being secured.

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

None.

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.

Yes. Pursuant to the Art. 37 par. 1 a) of the Copyright Act No. 121/2000 Coll., as amended by the Act No. 216/2006 Coll., libraries and archives can make 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 trade purpose.

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).

Periodical publications (newspapers, journals etc.), non-periodical publications (books, posters, picture calendars, postcards) and the Czech audiovisual works (i.e. audiovisual works produced by the Czech producer).

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 legal deposit apply after publication (i.e. after the distribution of content started). For the legal deposit there is no difference between materials distributed in the Czech Republic and distributed abroad.

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

There are some categories of publications exempted from legal deposit:

- the Collection of Laws
- the Collection of International Agreements
- promotional materials, product's or service's instructions etc.

- banknotes, stamps, coins, securities
- maps
- three-dimensional reproductions of visual arts
- computer programs
- promotional materials of political parties, civil societies, international organizations, funds, churches etc.

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.

Not yet.

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

The publisher has to deposit 18 copies of periodical publications and 5 copies of non-periodical publications to several libraries (incl. to the National Library of the Czech Republic) listed in the relevant Acts. The producer of the Czech audiovisual work is obliged to offer to purchase two copies of this work to the National Film Archive, the producer of the Czech audiovisual work which was produced with the support of the National Film Fund is obliged to lodge one copy of such audiovisual work to that Archive.

There are no special conditions for limited or *de luxe* editions.

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

Publishers and producers are responsible for delivering the legal deposit.

39. What are the time requirements for legal deposit?

The publisher has to send legal deposit of periodical publication within 7 days following publication and in the case of non-periodical publications within 30 days following publication. The producer must offer the copy to the National Film Archive of an audiovisual work within 60 days following the publication.

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

There are no payments or compensation involved in legal deposit of periodical and non-periodical publications. Concerning the Czech audiovisual work produced without the support of the National film Fund, the National Film Archive must buy copies of that audiovisual work. The price shall be determined by agreement.

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

The entities responsible for acting as legal depository are libraries - for both periodical and non-periodical publications (e.g. the National Library of the Czech Republic, the Moravian

Regional Library and regional libraries), the Ministry of Culture for periodical publications and the National Film Archive for the Czech audiovisual works.

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

Yes, legally deposited materials can be studied in the libraries on spot. The external lending is not used (but not forbidden). The audiovisual works deposited in the National Film Archive are available to the public via public performances organized by that Archive.

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

Most of depositories - libraries and the National Film Archive have their catalogues publicly searchable both off-line and on-line.

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?

Legal deposits are registered in operative records of the libraries and every legal deposit has its own number in the records. There is not any relation with the International Standard Books Number (ISBN) or with the International Standard Serial Number (ISSN) and other such codes.

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.

The information provided by libraries are as follows:

year/document	a) printed material (books, maps, posters, picture calendars, postcards)	b) musical works	c) audiovisual works (sound records on CDs, CD-ROMs, cassettes)
2005	20 205	290	990
2006	22 119	310	778
2007	23 410	300	673
2008	25 235	360	598
2009	24 080	320	1 009

Note: The numbers cover both legal (mandatory) and voluntary deposits (!).

The information provided by the National Film Archive concerning legal deposits of the Czech audiovisual works are as follows:

2005 – 17 feature films, 9 other films and 210 works enregistered on other medium than film

2006 - 22 feature films, 7 other films and 203 works enregistred on other medium than film
2007 - 27 feature films, 7 other films, 357 works enregistred on other medium than film
2008 - 26 feature films, 13 other films, 178 works enregistred on other medium than film
2009 - 29 feature films, 11 other films, 382 works enregistred on other medium than film.

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