

II. QUESTIONNAIRE

A. COPYRIGHT REGISTRATION AND RECORDATION

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

In Hungary there is only one type of copyright registration available, namely the voluntary register of works at the Hungarian Patent Office (HPO), which is a governmental office.

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.

Hungarian Patent Office/Customer Service

Address: H-1054 Budapest, Akadémia utca 21. Hungary

Phone: +36 1 474 5561 Fax: +36 1 474 5534

Toll free number from Hungary only - Creative line: 80 345 678

e-mail: mszh@hpo.hu

Office hours:

Monday:	9.00 to 13.00
Tuesday:	9.00 to 13.00
Wednesday:	10.00 to 18.00
Thursday:	9.00 to 13.00
Friday:	9.00 to 11.00

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

website: <http://www.mszh.hu/English/szerzoi jog/onkentes/>

email: ugyfelszolgalat@hpo.hu

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

No. it is not.

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

- Act No. LXXVI of 1999 on Copyright ("Copyright Act") [94/B §]
- Decree 18/2006. (IV. 12.) IM of the Minister of Justice on the detailed rules of the voluntary register of works kept at the HPO ("Voluntary Register Decree")

6. What kind of copyright works can be registered/recorded?

All kinds of creations of literature, science and art – whether or not specified by the Copyright Act – can fall within the scope of voluntary register of works kept by HPO.

Regarding the specified kinds of works please find below the following list:

Pursuant to Subparagraph (2) Paragraph 1 Copyright Act:

- a) literary works (of fiction, trade, science, journalism etc.),
- b) speeches delivered in public,
- c) computer program creations and related documentation (hereinafter referred to as software), whether fixed in source code or object code or any in other form, including application programs and operation systems,
- d) dramas, musico-dramatical works, ballets or pantomime,
- e) musical works with or without lyrics,
- f) radio and television plays,
- g) cinematographic creations and other audiovisual works (hereinafter jointly referred to as cinematographic creations),
- h) drawings, paintings, sculpture, engravings, creations produced by lithography or in like manner, and designs thereof,
- i) artistic photographs,
- j) maps and other cartographic creations,
- k) architectural creations and designs thereof, and designs of building complexes and town planning projects,
- l) designs of engineering structures,
- m) applied art creations and designs thereof,
- n) costume and scenery designs,
- o) industrial art designs,
- p) databases qualifying as collections of works.

With respect to collective societies please find the following prescriptions:

Pursuant to Subparagraphs (1)-(3) Paragraph 94/B Copyright Act:

“(1) Pending proof to the contrary, for the author to be regarded as such it shall be sufficient for his/her name to appear on the work in the usual manner.

(2) Where Subsection (1) does not apply, pending proof to the contrary, the person under whose name the work is registered by the Hungarian Patent Office in the voluntary register of works shall be regarded as the author, if able to substantiate it with an official deed. An administration fee shall be paid for the registration of the work.

(3) Where Subsection (2) does not apply, pending proof to the contrary, for a person to be regarded as the author it shall be substantiated with a private deed with full evidentiary force issued by a collective rights management organization relying upon the database containing works, subject-matters protected by neighbouring rights and rightholders subject to collective

rights management [Section 88 (1) f) 2]. These private deeds shall be issued by collective rights management societies as a voluntary service provided to their own members, upon request, consistent with their bylaws.”

However, it is to be noted that currently none of the collective societies provides the voluntary service regulated in Subparagraph (3) of Paragraph 94/B of the Copyright Act.

Is the registration/recording process different for each type of copyrighted work? Please describe the differences, if any.

No, there is not. The registration process is the same as the one applying to works.

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?

Yes, related rights also belong to the scope of voluntary register of works and the registration process is the same as the one applying to works.

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

No, there isn't.

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, it is not possible.

10. What is the legal effect of registration?

The certificate does not give rise to copyright protection, since it only serves as a means of evidence to prove that the work or performance entered into the voluntary register of works as the requester's own, existed with the same contents as those of the copy of the work attached to the certificate on the date of issue of the certificate. So, the registration does give rise to a presumption of authorship, which can serve as a proof in copyright infringement litigation.

11. Is copyright registration/recording mandatory or voluntary in the following circumstances? If your country has a mandatory registration/recording system, please describe any legal consequences for non-compliance.

- (a) **Recognition of creation?** It is voluntary.
- (b) **Transfer of rights?** Not applicable.
- (c) **Initiation of judicial proceedings?** Not applicable.
- (d) **Other changes in title/ownership (such as leasing)?** Not applicable.

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?

It is the Convention of Abolishing the Requirement of Legalization for Foreign Public Documents (5 October 1961) that applies to the recognition of documents based on copyright registration issued by public authorities. If the requirements of the Convention are met by the document it shall be given effect in any proceedings in the Hungarian territory. In other cases, the recognition of registration depends on the existence of corresponding multilateral or bilateral agreements between Hungary and the other country outside of the European Union.

13. What are the requirements for registration?

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

- Name and address of author(s),
- Name and address (place of business) of the representative,
- Title of the work,
- Genre of the work,
- Further details for the individual identification of the work, carrier of the work.
- Carrier of the work requested to be entered into the register.

(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?

The request for entry into the voluntary register of works shall be filed on the form of HPO personally (or through a representative) per post or by fax.

(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?

No, there is not, however the original or a copy of the work (hereinafter: “copy”) shall be filed in as an attachment of the request, in order to enable the administrator to ensure the reliability of data filled out on the form of request. Nevertheless, the copy placed into an envelope and sealed by the HPO shall be preserved by the author or the right holder, after the copy is returned to the author or the right holder. Furthermore, the copy shall be of a size to admit of placement in an envelope of standard A4 size. If the copy is of a larger size, a carrier of not more than A4 size (in particular a photo, electronic data carrier, magnetic tape), durably fixing the work and suitable for identifying it, shall be enclosed as copy.

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

Yes, there is a registration fee amounting to HUF 5000.

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

Where the request is filed personally, the registration process shall be completed at the same time (usually 15-30 minutes), whereas in the case of requests filed per post lasts within 22 working days.

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/recording process for domestic as opposed to foreign works or objects of related rights?

Foreigners enjoy national treatment. A residence in Hungary or in the EU is not a precondition of the registration.

15. Are the files stored in digital form?

Yes, the data of files are 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?

There is no classification of the registrations. Updating information is not possible, however correcting information is possible. Therefore, if there is a need to modify any data of the voluntary register of works, a new request has to be submitted. This means that the copy of the work will be placed into a new envelope sealed by the HPO with the new date on it and returned to the author.

17. Does the system have a search facility?

Yes, it does.

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

Yes, it is available online [<http://elajstrom.hpo.hu/?service=munylv&lang=HU>].

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

No.

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

Yes, all data filled out by the author or the rightholder on the form issued by HPO are publicly available, unless the author does not agree to the publication of his personal data.

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.

The HPO ensures the legal use of orphan works by issuing a license following the unsuccessful diligent search for the author performed by the applicant. However, a license on

orphan works may only be granted for a term not exceeding five years and it is only valid in Hungary, furthermore it is non-exclusive and non-transferable. The remuneration is fixed by the HPO and it should be deposited if the use is for-profit. Additionally, in case of non-profit use and use of the form issued by HPO for the request a preferential rate of the administrative fees applies to the request. Finally, the HPO also makes available a register of orphan works for the use of which it has granted a license. [Paragraphs 57/A-57/D of the Copyright Act, Subparagraphs (2)-(4) Paragraph 4 Decree 100/2009. (V. 8.) of the Government on the detailed rules related to the licensing of certain use of orphan works]

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"?

Yes, the collective management societies shall keep records on the legal successors of authors of works /right holders of other protected subject matter that fall within the scope of their collective management. The record keeping is based on the corresponding provisions of the Copyright Act. [Subparagraph (7) Paragraph 106 Copyright Act.]

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

Yes, since the HPO is responsible for keeping both types of recordings i.e. voluntary register of works and the register of orphan works for the use of which it has granted a licence. Furthermore, the applicant has to perform a diligent search for the author and in the framework of this process he is also obliged to conduct searches in the voluntary register of works at the HPO.

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, there isn't.

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?

Yes, they do.

26. Please provide statistics on following registrations/recordations:

(a) Number per statistical period (last four years): 1117

(b) Number per nationality (last four years):

Virgin Islands	2
France	2

Seychelles Islands	1
USA	1
Russia	1
Germany	3
Italy	2
Switzerland	1
Great Britain	4
Total	17

(c) Number of inquiries/requests for information filed per statistical period (since 2008): 1404

(d) Number of recordation/registrations whose subject matter has entered the public domain. No data are available.

Global figure/Figure per statistical period (last five years): 2521

B. LEGAL DEPOSIT

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

Yes, there is. The legal deposit system is regulated by law in Hungary. (See Question Nr. 28)

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

- Government Decree No. 60/1998 on the legal deposit of press product (in furthermore: "Government Decree")
- Act CXXXVII of 2004 on National Audiovisual Archives
- Act II of 2004 on motion picture
- Act II of 1986 on the press
- IHM-MKÖK Decree 15/2005 on audio-visual legal deposit system

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

To provide legal deposit copies is mandatory in Hungary. Non-compliance involves fine with a maximum of HUF 50.0000, and a compensation on the accounts of the publisher in the amount of the purchase or photocopying executed by the library to substitute the copies, legal action initiated because of press-delinquency and confiscating the publication.

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

Please find below the main functions of the Hungarian deposit system:

- preservation of the Hungarian documentary heritage
- providing national bibliographic control
- giving access to it through the public library system
- collection of statistical information
- administrative and coordinating tasks within the Hungarian library system

Please be also informed that the National Audiovisual Archive [which is a separate institution from the National Széchényi Library (in furthermore: “National Library”)] collects and stores the programs broadcasted by the major Hungarian broadcasters. It also provides them with content description data and makes them available to the public for educational and research purposes.

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

There is no direct connection, however libraries are obliged to comply with the copyright law regulations in case of operating the legal deposit service.

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.

The legal deposit regulation does not provide any provisions relating to making any copies. Nevertheless, the National Library is entitled to make copy of the original press product in case the printing-house failed to deposit the item.

Anyway, in other cases Paragraph 35 Subparagraph (4) of Copyright Act shall apply:

“Publicly accessible libraries, educational establishments [Article 33 (4)] museums and archives as well as audio and audiovisual archives qualifying as public collections shall be allowed to make a copy of a work if it is not intended for earning or increasing income even in an indirect way and if

a) the copy is required for scientific research or archiving

b) the copy is made for public library supply or for the purpose of a use provided for in Article 38 (5),

c) the copy is made of a minor part of a work made public or of an article published in a newspaper or periodical for internal purposes of the entity, or

d) the copying is allowed by a separate law under certain conditions, in exceptional cases.”

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).

- Print material: books, serials, cartographic materials, sheet music, small prints, such as posters, postcards, brochures, death notices, invitations, ephemeral publications, menu cards etc. (provided that they were printed in more than 50 copies).
- Non-print material: sound recordings, films, video documents (regardless of the number of copies produced), broadcast programs.
- Electronic documents: direct access publications (regardless of the number of physical copies produced) and remote access (online) publications.

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?

Press products whether produced in Hungary or abroad and issued in Hungary fall within the subject matter of legal deposit decree, so they are to be supplied following their production. However, press products produced in Hungary and distributed abroad shall also be supplied. Furthermore, legal deposit regulation shall apply to films, video documents and electronic documents produced abroad and distributed in Hungary following the expiration of their distribution rights.

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

No, there isn't, so even documents with limited scope of distribution (containing top secrets) fall within the scope of legal deposit regulation, however, their copies shall be supplied only to the National Library by applying limitation rules, i.e. such documents are not available to the public.

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.

No, in general there is no special regulation in regard to material in electronic format, although the number of legal deposit copies is lower than such of printed materials according to the general rule. So, relating to any other aspects of legal deposit the general rule shall apply to on-line materials as well.

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

The legislation applies to press products (re)produced at least in 50 copies. Special regulation shall apply to films, video documents and electronic documents regardless of the number of copies. Relating to de luxe editions the general rule shall apply. With respect to special cases please be informed in case of printed publications 6 copies are to be deposited in the National Library, and one more copy shall be provided to the regional competent library, whereby its competence is based on the place of publication. Special regulation applies to audiovisual works whereas 1 copy of video documents shall be deposited in the National Library, 1 copy

in the Hungarian National Film Archive, 1 copy of films is to be deposited at the Hungarian National Film Archive. The National Audiovisual Archive (NAVA) records all the broadcasted audiovisual materials of the broadcasters. NAVA invites the broadcasters to submit a copy of their audiovisual material only in the case of NAVA failing to record the material or the recording is technically impossible (Paragraph 1 and 2 of IHM-MKÖK Decree 15/2005 on audiovisual legal deposit system). Finally, 3 copies are to be delivered to the National Library in case of certain "small printed materials" (defined by the law), directly accessible electronic documents, video and sound recordings.

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

In general the printing house is responsible for delivering legal deposit copies, whereas the producer shall provide the legal deposit in case of films. However, such obligation with respect to supply of legal deposit relating to video and electronic documents created abroad and distributed in Hungary refers to the distributor of such. Shall the product be created by several firms or produced wholly or partially abroad, the publisher shall deliver the legal deposit. Even in case of default of delivery of copies on behalf of the printing house, the publisher shall provide the legal deposit. Relating to broadcast programs the National Audiovisual Archive records each of them and broadcaster submit these only in case of service failure. Finally, confiscated press products shall be provided by the executive office.

39. What are the time requirements for legal deposit?

With respect to timing please be informed that time requirements depend on two conditions. One of these relates to the type of creation, where else the other concerns the location of production. In general legal deposit shall be delivered not later than 15 days following the month of production. However, the delivery deadline for films produced in Hungary is 1 month after the termination of production, whereas film produced abroad and distributed in Hungary shall be deposited within 2 years following its presentation. Should the distribution right be for a limited period of time the deadline shall be 30 days after the expiration of distribution right. Furthermore, the deadline for legal deposit of video documents shall be 3 days following putting them into circulation.

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

Legal deposit copies are to be supplied free of charge by the printing house or by the producer. Nevertheless, all costs regarding the delivery of legal deposits shall be covered by the publisher.

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

The National Library is acting as the legal depository for copies of printed documents. Whereas documents, e.g. video documents containing broadcasted programs are deposited in the National Library and in the Hungarian National Film Archive. Furthermore, the National Audiovisual Archive is responsible for deposit copies of radio and television broadcasting materials. Finally, standards and patent documents are archived by the Hungarian Patent Office.

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

Please, be informed that from the six legal deposit copies preserved by the National Library, one is archived as part of the current national bibliography, another copy serves as the basis for its own public library services (if needed, this copy serves for administrative purposes as well). Another copy is delivered to the second most relevant Hungarian national library (library with national acquisition profile). Furthermore, the additional copies are provided to university libraries and special libraries for the purposes of national document supply (interlibrary loans).

Finally, the National Audiovisual Archive operates a closed network system which includes 800 access points (libraries, public schools) by making accessible all materials to the public. Pursuant to Subparagraph 5 of Paragraph 38 of the Copyright Act the public libraries and public collections may freely publish their digital collections in their closed network under following conditions:

„In the absence of a contractual provision to the contrary, works forming part of the collection of publicly accessible libraries, educational establishments [Article 33(4)], museums, archives, as well as audio and/or audiovisual archives qualifying as public collections, may be, for the purpose of research or private study, freely displayed to individual members of the public on the screens of dedicated terminals on the premises of such establishments, and, in the interest of this, they may be in a way and on conditions as provided for in separate legislation communicated, including their making available, to such members of the public, provided that this is not for direct or indirect earning or increasing income.”

By virtue of this prescription the National Audiovisual Archive functions as an "on-line library". Basically, access to the National Audiovisual Archive's materials has two levels. On the first level metadata generated by the National Audiovisual Archive (descriptive data) are accessible to the public on the Internet. On the second level the program items preserved by the National Audiovisual Archive shall be accessed only through a dedicated network, namely within the framework of library services, for educational and research purposes. The National Audiovisual Archive shall also ensure prevention from illegal use of these programs in order to avoid any infringement of copyrights.

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

The National Library creates the current national bibliography based on the legal deposit copies received. The bibliographic records are available in the library OPAC and also in the Hungarian National Shared Catalogue (the Hungarian abbreviation is MOKKA). Libraries receiving legal deposit copies are also processing the publications within their online cataloguing systems. The National Audiovisual Archive provides an open and online accessible search engine. It also provides key frame pictures and one-minute long previews of more than 400.000 items.

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?

Following the delivery of legal deposit copies they shall be filed under a special filing number in the National Library serving solely for internal registration, which registration number is not connected with the international standard document-identification numbering systems.

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

	printed material (serial publications per issues; small printed materials not included)		sheet music		audiovisual material (sound recording, video, DVD)	
	works	number of copies	works	number of copies	works	number of copies
2005	82756	490672	403	2418	2869	3986
2006	85148	495486	344	1482	2025	2770
2007	85528	506408	306	1422	2161	3724
2008	89089	526098	311	1433	2515	3584
2009	83564	497344	284	1182	1513	2401

With respect to the statistics on the number of deposits per year the National Audiovisual Archive archived about 80.000-95.000 items of broadcast material per year.