

QUESTIONNAIRE

A. COPYRIGHT REGISTRATION AND RECORDATION

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

State Department of Intellectual Property - state-run governmental body within the Ministry of Education and Science of Ukraine

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.

45 Uritskyj st., Kyiv-35, COS, 03680, Ukraine, State Department of Intellectual Property. Applications for the copyright registration are received from 9.30 to 12.30 on weekdays. Tel.: (+38044) 498-37-08, (09, 10).

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

http://www.sdip.gov.ua/ua/copyright_registration.html (now available only in Ukrainian)
Reestr_ap@sdip.gov.ua

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.

Law of Ukraine on Copyright and Related Rights,
Regulations adopted by The Cabinet of Ministers of Ukraine dated 27.12.2001, № 1756 "On State Registration copyright and contracts relating to copyright in a work".

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.

Any kind of copyright works can be registered
The registration process is the same for any type of copyrighted work

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?

The subject matter of related rights (e.g., performances, broadcasts, sound recordings) can't be registered/recorded

8. Is there a possibility to record the transfer or licensing of copyright/related rights? Contracts relating to transfer or licensing of copyright can be registered (such as author's agreement, licenses that enjoy the requirements to the form and content of the agreement provided by the Law and Civil Code)

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?

The regulation about the possibility to record a security interest in the copyright is not provided by the Ukrainian legislation in the field of copyright

10. What is the legal effect of registration?

According to Art. 8 of the Law copyright with respect to a work shall arise by virtue of the work's creation. No registration of a work or any other special formalization thereof, nor performance of any other formalities, shall be required for the onset and exercising of copyright.

A subject of copyright, in order to certify its authorship (copyright) with respect to a promulgated or non-promulgated work, the fact and date of publication of the work, or agreements, to certify contracts relating to the author's right to a work at any time during the copyright protection term, may register the above in the official State register.

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.

Copyright registration is voluntary in all the circumstances mentioned above.

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?

The regulation about the question mentioned above is not provided by the Ukrainian legislation in the field of copyright

13. What are the requirements for registration?

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

1. Applications for Registration of Copyright must include:

- request for Copyright registration in Ukrainian language in the form determined by the State Department of the Intellectual property;
- copy of the work (promulgated or not promulgated) in material form;
- document confirming the fact and date of promulgation;
- document confirming official fee payment for preparation of Copyright registration or copy of document confirming rights for nonpayment of the said fee;
- document confirming official duty payment for Copyright registration or copy of document confirming rights for nonpayment of the said duty;
- power of Attorney issued in accordance with established procedure, in case the request is filed by an attorney on behalf of Author or his heritor;
- document confirming inheritance of property right of author;
- other documents and materials depending on kind of work.

2. Application for Registration rights of the Author for a work (rights for a course-of-duty work, Assignment (Alienation) deeds of Proprietary Rights for a work) must include:

- request for Copyright registration in Ukrainian language in the form determined by the State Department of the Intellectual property for corresponding objects;
- copy of the work in material form;
- copy of author's contract confirming assignment (alienation) of rights to Use a Work. If assignment (alienation) of Proprietary Rights or rights to Use a Work fulfill a holder of exclusive Proprietary Rights for a Work, but not an Author, a document confirming of the exclusive Proprietary Rights for a Work is to be added to the request;
- document confirming official fee payment for preparation of Copyright registration or copy of document confirming rights for nonpayment of the said fee;
- Power of Attorney issued in accordance with established procedure, in case the request is filed by an attorney on behalf of Copyright holder;
- other documents and materials depending on kind of case.

(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 need to be submitted in written form (signed).

The request can be submitted by the post.

The request can 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?

Deposit requirement provides that a copy of the work (promulgated or not promulgated) be submitted in material form. It can be submitted in digital form (on digital carrier)

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

The registration fees:

- for preparation to state registration of copyright from physical persons 55,25 UAH;
- for the execution and issuance of the certificate about registration of copyright on work from physical persons 8,5 UAH;
- for preparation to state registration of copyright from legal entities 161,5 UAH;
- for the execution and issuance of the certificate about registration of copyright on work from legal entities 25,5 UAH;

- for preparation to state registration of contracts relating to copyright in a work, from physical persons 72,25 UAH;
- for preparation to state registration of contracts relating to copyright in a work, from legal entities 195,5 UAH;

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

The application is treated and the decision about the registration is made over a period of 1 month from the date of the reception of properly filled documents of 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 and people without legal residence are allowed to register their creations. The registration process for domestic and foreign works is the same.

15. Are the files stored in digital form?

The State Registry of certificates of copyright registration and The State Registry of contracts relating to copyright in a work are kept in paper and digital form and contain some main data, but they don't include the files with all the documents of application 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?

A record about registration of copyright on work which is brought to The State Registry Of certificates of copyright registration, contains such information:

- number application for the registration of copyright on work;
- date of filing of application for the registration of copyright on work;
- number of registration of copyright that is the number of certificate;
- date of the registration of copyright on work;
- date of publication of information about the issue of a certificate and number of official bulletin;
- information is about the sphere of creative activity, which work belongs to;
- object of copyright, which work belongs to, in accordance with the article of a 8 Law;
- kind and complete name of work (brief, if it exists);
- alternative name of work (if it exists);
- data about the origin of work (derivative, not derivative);
- data about the creation of work (for a course-of-duty, by agreement, on own initiative);
- last name, name and patronymic of author (authors) of work, date of birth, complete mailing address;
- data about how an author will be remembered in the official publications of the State Department (under the proper name, anonymously or under a pseudonym);
- outgoing data of the promulgated work (if they exist).

A record about registration of contract relating to copyright in a work which is brought to

State Registry of contracts relating to copyright in a work contains such information:

- number application for the registration contract relating to copyright in a work;
- date of filing of application for the registration contract relating to copyright in a work;
- number of registration of contract relating to copyright in a work that is the number of decision;
- date of the registration of contract relating to copyright in a work;
- date of publication of information about the issue of a decision and number of official bulletin;
- information is about the sphere of creative activity, which work belongs to;
- object of copyright, which work belongs to, in accordance with the article of a 8 Law;
- kind and complete name of work (brief, if it exists);
- data about the origin of work (derivative, not derivative);
- name of the contract relating to copyright in a work;
- number of the contract relating to copyright in a work;
- date of signing of the contract relating to copyright in a work;
- last name, name and patronymic of physical person (persons) or the complete official name of legal entity (entities) - parties of agreement and their codes according to the Unified State Registry of Enterprises and Organizations of Ukraine, complete mailing address;
- scope of transferred rights;
- term of validity of the contract relating to copyright in a work;
- notice about the territory validity of the contract relating to copyright in a work;

It is possible to correct or update relevant information.

17. Does the system have a search facility?

As the State Registry of certificates of copyright registration and The State Registry of contracts relating to copyright in a work are both kept as the digital databases, so they have search facilities.

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

It is not accessible by the public. The search facility isn't available online. But the extraction from the Registry is provided on demand.

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

Copies of the documents about the registration are given on demand of the interested party.

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

If the person isn't an interested party, only non-confidential (non-commercial) information is provided on demand

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.

Art. 49 (Functions of Collective Management Organizations) of the Law provides that any person who promulgates a non-promulgated work for the first time after expiration of the term of protection of copyright with respect to the work, shall enjoy protection equal to the protection of the author's proprietary rights. The term of protection of these rights shall be 25 years from the date it was first promulgated.

Ukrainian legislation doesn't have any other special norms legislation dealing specifically with "orphan works". (Art. 49 of the Law is related, see Question 22)

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"?

Art. 49 (Functions of Collective Management Organizations) of the Law provides that Collective management organizations shall be entitled to keep on their accounts any amounts of unclaimed remuneration received from users of objects of copyright and/or related rights. Three years after the moment of distribution of the remuneration the unclaimed remuneration amounts can be used for regular payments to subjects of copyright and/or related rights for other purposes stipulated in their charters in the interests of subjects of copyright and/or related rights.

So in practices it may be an initiative of Collective Management Organizations to identify and/or locate the copyright owner of "orphan works".

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

The registering body doesn't deal with "orphan works" in some special way because this question isn't regulated by the national legislation.

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?

In Ukraine there is no special system to identify and list recorded/registered works 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?

N/A

26. Please provide statistics on following registrations/recordations:

(a) Number per statistical period (last five years)

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- (b) Number per nationality (last five years)

Statistics not provided

- (c) Number of inquiries/requests for information filed per statistical period (last five years).

Statistics not provided

- (d) Number of recordation/registrations whose subject matter has entered the public domain. Global figure/Figure per statistical period (last five years)

Statistics not provided (because the state registration system has been working since 1995)

B. LEGAL DEPOSIT

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

According to the Regulations adopted by The Cabinet of Ministers of Ukraine dated 27.12.2001, № 1756 "On State Registration copyright and contracts relating to copyright in a work" documents of application must be added in a form acceptable for copying and deposit during the term of copyright protection.

After the issue of the certificate about registration of copyright on work documents of application are stored.

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

Regulations adopted by The Cabinet of Ministers of Ukraine dated 27.12.2001, № 1756 "On State Registration copyright and contracts relating to copyright in a work"

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 of documents of copyright application is mandatory because they must be stored during the term of copyright protection. Persons who provide archive storage are responsible for the appropriate storage of the documents.

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

The legal deposit of documents of copyright application has a function of preservation of legal documents.

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

The documents of copyright application stored in legal deposit can be used as legal documents on demand of interested persons (rightholders), courts and law-enforcement authorities for the purposes of copyright protection.

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.

According to the art. 22 of the Law of Ukraine on Copyright and Related Rights it shall be permissible for libraries and archives, the activity of which is not aimed, directly or indirectly, at earning profit, to reprographically reproduce, without the consent of the author or other copyright holder, one specimen of a work, subject to the following:

- 1) when a reproduced work is a separately published article or other small works or excerpts from written works (except for computer software and databases), with or without illustrations, and when the reproduction is made upon an individual's requests, provided that:
 - a) the library or archive has sufficient reason to believe that such a specimen will be used for the purpose of education, training or private research;
 - b) reproduction of the work is a single and not a regular event;
- 2) when reproduction is made to preserve or replace a lost, damaged or unusable specimen of the library or archive, or to renew a lost, damaged or unusable specimen from the storage of a similar library or archive, and it is impossible to obtain such a specimen by other means, and when reproduction of the work is a single and not a regular event.

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).

They can be all documents that are the copies of works given for copyright registration. According to the Art. 8 of the Law objects of copyright shall be works in the field of science, literature and art, namely:

- 1) literary written works of fiction, journalistic, scientific, technical or other nature (books, brochures, articles, etc.);
- 2) speeches, lectures, orations, sermons and other oral works;
- 3) computer software;
- 4) databases;
- 5) musical works with or without lyrics;
- 6) dramatic, musical drama works, pantomimes, choreographic and other works created for stage presentation and staging versions thereof;
- 7) audiovisual works;
- 8) works of fine art;
- 9) works of architecture, city construction, garden and park design;
- 10) photographic works, including works made by means similar to photography;
- 11) works of applied art, including works of decorative weaving, ceramics, carving, art glass, casting, jewelry, etc;
- 12) illustrations, maps, layouts, drawings, sketches, and plastic works relating to geography, geology, topography, engineering, architecture and other spheres of activity;
- 13) stage interpretations of the works specified in clause 1 of this part, and folklore versions that can be presented on stage;
- 14) derivative works;
- 15) collections of works, collections of folklore versions, encyclopedias and anthologies, collections of regular data, and other composite works, provided that they result from creative work involving selection and co-ordination or arrangement of the contents without prejudice to copyright covering the integrated works, which are included thereto as the integrated parts;

- 16) texts of translations for dubbing, soundtracking and adding subtitles in Ukrainian and other languages to foreign audiovisual works;
17) other works.

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?

According to Art. 8 of the Law a subject of copyright, in order to certify its authorship (copyright) with respect to a promulgated or non-promulgated work, the fact and date of publication of the work, or agreements, to certify contracts relating to the author's right to a work at any time during the copyright protection term, may register the above in the official State register.

As the content can be non-promulgated it is supposed to be stored irrespective of its distribution (in Ukraine or abroad).

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

No regulation provided in copyright legislation

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.

Deposit requirement for copyright registration provides that a copy of the work (promulgated or not promulgated) be submitted in material form. It can be submitted in digital form (on digital carrier). The data is stored in the same format.

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

One copy is given for the registration and it is deposited.

According to the Regulations adopted by The Cabinet of Ministers of Ukraine dated 27.12.2001, № 1756 "On State Registration copyright and contracts relating to copyright in a work" storage of original and copy of audiovisual work which requires the special conditions of storage, is provided by the Ministry of Culture and Tourism of Ukraine on the base of state enterprise "National center of Oleksandr Dovzhenko"

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

State Department of Intellectual Property.

39. What are the time requirements for legal deposit?

The term of copyright protection.

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

There is no payment or compensation involved in legal deposit

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

State Department of Intellectual Property.

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

The copies of deposited materials are given on demand of interested person.

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

The depository doesn't have publicly available search facilities.

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?

As copyright registration doesn't require the indication of any number or code like ISBN and ISSN, the legal deposit of the documents of application isn't linked to any number or code.

45. Statistics on the number of deposits per year (last five years).

2005

- a) print material – 1588 registrations.
- b) musical works – 610 registrations.
- c) audiovisual works – 78 registrations.

2006

- a) print material – 1862 registrations.
- b) musical works – 685 registrations.
- c) audiovisual works – 70 registrations.

2007

- a) print material – 2018 registrations.
- b) musical works – 777 registrations.
- c) audiovisual works – 94 registrations.

2008

- a) print material – 1861 registrations.
- b) musical works – 707 registrations.
- c) audiovisual works – 91 registrations.

2009

- a) print material – 2201 registrations.
- b) musical works – 1044 registrations.
- c) audiovisual works – 89 registrations.