

WIPO Questionnaire for Survey on Copyright Registration and Deposit Systems

**INTELLECTUAL PROPERTY OFFICE OF MONTENEGRO
COPYRIGHT AND RELATED RIGHTS DEPARTMENT**

A. COPYRIGHT REGISTRATION AND RECORDATION

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

- **Ministry of Economy- Intellectual Property Office of Montenegro;**
- **Central National Library of Montenegro “Đurđe Crnojević” - the national library.**
- **Autors Agency for Montenegro.**

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?

- **Intellectual Property Office of Montenegro -Bulevar Revolucije 9, 81 000 Podgorica, Montenegro. Open at 09-5 pm, Monday to Friday;**
- **Central National Library of Montenegro “Đurđe Crnojević” 81,250 Cetinje, Montenegro Bulevar hero 163rd.**
- **Autors agency for Montenegro- Njegoševa 58, Herceg Novi.**

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

- **Webpage of Intellectual Property Office of Montenegro: www.ziscq.me; E-mail address: ziscq.ipom@gmail.com ;**
- **Webpage of Central National Library of Montenegro “Đurđe Crnojević” : <http://www.cnb.me>; E-mail address: CNB@T-COM.ME.**

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

- **No, Intellectual Property Office is not interconnected to other copyright data systems provided either by public or private entities.**

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

- *The Law on Copyright and Related rights ("Official Gazette SCG, no. 61/2004);*
- *Decree on the Records on Works of Authorship and Subject Matter of Related Rights (SaM Official Gazette, no. 24/2005).*

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

- *Copyrighted work and subject matter of related rights work can't be register in the sense in which can be said about industrial property rights, but there is a possibility to log and deposit a copyrighted work and subject matter of related rights work.*

Spoken works such as speeches, sermons, and lectures; written works such as belletristic works, brochures, translations, articles and computer programs; musical works with or without words; theatrical or theatric-musical works, choreographic works and works of pantomime; folklore works; audiovisual works; works of fine art such as paintings, graphic works, and sculptures; works of architecture, works of applied art and industrial design; cartographic works; drawings, sketches, tables and photos. Draft, component parts and the title of a work, which are in themselves individual intellectual creations, shall enjoy the same protection as the work itself.

Regardless of the foregoing paragraph, protection includes a title of a work.

The logging/ depositing process has no differences for each type of copyrighted 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. Subject matter of related rights can also be logged/deposited. The logging/depositing process for copyrighted works applies to related rights work.*

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

The moral rights of any author are not transferable by a contract. The author or his/her successor in rights may licence to another person some or all of the pecuniary rights on his/her work. The current Law on Copyright and related rights in Montenegro doesn't recognize a possibility to record the transfer or licensing of copyright/related rights. The provisions of the law that regulates contracts and torts shall apply to copyright contracts. The contract has to be veriflicated by Court, and only in this case produces a legal effect.

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?
- ***To preserve the evidence or for other reasons, the holders of rights granted by The Law on Copyright and Related rights , may log their works or deposit the originals or reproductions of their works, phonograms, videograms, or subject matters of some other right with the organization authorized for this purpose. Until proven otherwise, it shall be presumed that the rights in registered works exist and belong to the person designated in such register as their holder.***
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.
- ***Voluntary.***
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?
- ***Registration is accepted as evidence of the existence and the date of creation and ownership of the work, due to the free system of evidence applicable in procedure laws. There is no legal procedure to validate the registration made by foreign authorities, but it can be accepted as evidence. The recognition is not automatic, and the local procedure is required to validate the foreign registrations.***
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/recording fee? If so, how much is the registration/recording fee?

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

- Deposition of copyrighted works and subject matter of related rights works shall be submitted in a sample (one copy). Copyrighted works and subject matter of related rights works, which are on foreign language in original, shall be deposited on the original language. Samples of copyrighted works and subject matter of related rights works shall be recorded on (paper, magnetic tape, optical disk, compact cassette), so the copyrighted works and subject matter of related rights works could be visual and readable directly or by machines or devices. Samples of copyrighted works and subject matter of related rights works shall be recorded in written document form (handwriting, printed text, tone logs, drawings, sketches, planes), tracks, visual and audiovisual records (compact disk, audio cassette, video cassette, optical disk, slide) or in a digital form (digital disk). Treedimensional works of visual arts, works of architecture, cartographic works, works of applied art and industrial design shall be submitted by depositing a photo, a drawing or any other visual or digital record which provides identification of the work. Cartographic works and planes shall be made in accordance with technical metode of drawing in relevant technical domain. Also, there is a registration fee wich amounts 40€ for each copyrighted work and subject matter of related rights work. The average time taken to complete the registration process is not legally predicted, but usual time for registration/recording is about one month.

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 copyrighted works or objects of related rights?

- The author's work of the foreign citizens shall be protected if: the author is a person whose copyright is recognized on the basis of an international agreement ratified by Montenegro, or there is reciprocity between Montenegro and the author's country.

Person invoking the reciprocity referred above shall bare the burden of proof of its existence.

The registration process for domestic and foreign works or objects of related rights is the same. In a respect that Montenegro is a member country of most important international convention concerning copyright - Berne Convention for the Protection of Literary and Artistic Works, autors from each country from Bern Union enjoy the same rights as national autors, wich are provided by provisions of Bern Convention. In such a case and according to Montenegrin Constitution, international conventions have a direct usage.

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?

- **Records of works of authorship and subject matters of related rights contains:**

- 1. file number;**
- 2. date of application;**
- 3. second name, name, address and nationality of nature person, name and location of legal person;**
- 4. name of proxy, if the application is submitted by proxy;**
- 5. title of copyrighted work or title of subject matter of related rights work;**
- 6. Information on the type of copyrighted work or subject matter of related rights work;**
- 7. Information on recording form of copyrighted work or subject matter of related rights work;**
- 8. Information on deposition of copyrighted work or subject matter of related rights work, with the indication of number of copies on copyrighted work or subject matter of related rights work(sketches, photos, audio -records, video-records).**
- 9. Information on deposition on description of copyrighted work or subject matter of related rights work(if any).**
- 10. Serial number of deposited copyrighted work or subject matter of related rights work, given by Intellectual Property Office of Montenegro.**
- 11. Information on taxes paid for deposition of copyrighted work or subject matter of related rights work.**

Any change on content of deposited copyrighted work or subject matter of related rights work,requires submission of new application.

17. Does the system have a search facility?

- **No in this time, but Office plans to provide advanced search facility system in 2011 year by virtue of National IPA project.**

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

- **No, Montenegrin office does not have a publicly available search facility, or online database.**

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

- ***The access is granted to copies of the work.***

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

- ***Public have access only to what is in the register. The general public (except applicants) has no access to the other material submitted by the applicant.***

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 copyright on a work of authorship, the author of which is unknown (an anonymous work or a work under pseudonym), shall be held by the following:***

1) If published, by its publisher;

2) If disclosed, but not published, by the person who has disclosed it.

If proved that publisher or person who has disclosed copyrighted work have not acquired the permission to publish and/or disclose the work from its author or his/her successor, Paragraph 1 of this Article shall not apply. In the case of anonymous and pseudonymous works, copyright shall expire 70 years after publication.

(3) Once the identity of the author of a work is established, the rights of the publisher and/or the person who has disclosed it shall be terminated.

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"?

- ***Upon the expiration of the authors' pecuniary rights, the associations of authors and institutions in the fields of culture, science and arts shall take care of the protection of authors' moral rights.***

Besides the parties referred, any person shall have the right to protect the right of authorship and integrity of the works, as well as to oppose any form of unbecoming exploitation of the works of authorship.

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

- ***No, Intellectual Property Office does not 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?

- ***Intellectual Property Office of Montenegro doesn't keep records and registers with copyrighted works or subject matter of related rights in the public domain.***

According to Law on Copyright and related rights, upon the expiration of the authors' pecuniary rights, the associations of authors and institutions in the fields of culture, science and arts shall take care of the protection of authors' moral rights. Also, there is Montenegrin Autors Agency, wich is specialized Agency for the intellectual property rights protection and legal services in this respective field of activities.

Autors Agency provides specialized services to authors and holders of rights within some of its services:

- ***Public art, literature, theater and film rights;***
- ***Department of Science and profession;***
- ***Public international law;***
- ***Public rights of industrial property;***
- ***Service of judicial and administrative representation in the domain of individual and collective protection.***

Autors agency has been established in 1974, and it has already deposited 320 works of authorship.

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?

- ***According to Law on Copyright and related rights, besides the associations of authors and institutions in the fields of culture, science and arts, any person shall have the right to protect the right of authorship and integrity of the works, as well as to oppose any form of unbecoming exploitation of the works of authorship.***

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)

(Note: Intellectual Property Office of Montenegro started on May 28, 2008. Up to that moment, we had Federal Intellectual Property Office of Serbia and Montenegro. The Office conducted a register of deposited copyrighted works and subject matter of related rights, which are recognized as valid by Regulation on the provision of law in the field of intellectual Property (The Regulation was published in the Official Gazette of RM "no. 61/2007 and "Official Gazette of Montenegro, no. 70/2008.). Copyright and Related Rights, established before the third June 2006. in accordance with the laws of the State Union of Serbia and Montenegro, and in accordance with international agreements binding for Montenegro, are valid in Montenegro until the expiry of the period of protection, in accordance with the law.)

(a)

- ***In 2008 : 16 copyrighted works and 1 subject matter of related rights work.***
- ***In 2009: 20 copyrighted works and 1 subject matter of related right work.***

(b)

- ***All applicants were citizens of Montenegro.***

B. LEGAL DEPOSIT

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

- ***Yes.***

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

- ***Law on Publishing ("Fig. Gazette of RM" no. 20/95, 22/95, 64/02),***
- ***Law About the Library Activity ("Fig. SRCG paper, no. 16/77 and 2 / 89),***
- ***Law on the Protection of Cultural Heritage ("Fig. Gazette of RM" no. 47/91, 27/94),***
- ***Law on Copyright and related rights ("Fig. List SCG, no. 61/2004).
(Note: New legal acts are in procedure).***

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

- ***Every printing house in Montenegro has an obligation to deposit 12 samples of every publication to Central National Library "Đurđe Crnojević". If the printing house prints in other country, it has an obligation to deposit 8 samples of every publication. Editor is in due to bear a cost of legal deposit.
Law on Publishing ("Fig. Gazette of RM" no. 20/95, 22/95, 64/02) provided a fine for breach of legal deposit procedure.***

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

- ***The functions are: gathering, preservation of cultural and scientific heritage; free access to information, knowledge and intellectual goods; creating and building of national collection "Montenegrina"; gathering of statistic information ; achieving universal control of publication; production of national bibliography (ongoing and retrospective).***

(Note: Montenegrina - The Museum Department, as a separate department within Central National Library , collects, processes and keeps museum and archive holdings of Montenegrin national library. It is a separate unit, even physically separated from the basic holdings. The museum and archive holdings contain "Montenegrina" or "черногорика" (Montenegrin books and periodicals), Old and Rare Books Collection and five legacies. Montenegrina - holds Montenegrin books and periodicals. These holdings are built following the criteria on which the Montenegrin national bibliography is based, i.e. it includes publications whose authors (various authors: actual authors themselves, translators, anthology editors, illustrators, photographers...) are Montenegrin, i.e. were born in Montenegro or originating from Montenegro; the publications published/issued within today's territory of Montenegro - independent of the authorship and theme; the publications thematically related to Montenegro - regardless of the authorship, language and place of publication. Montenegrina - monographic publications contain some 32,000 bibliographic units, many among them unique and rare. Montenegrina - serial publications contains the segments of magazines and newspapers - the total of 1,025 titles, or more than 65,000 issues. Magazines and newspapers are divided into old and contemporary/current. Old Montenegrin magazines cover the period between 1835 and 1945 (i.e. from "Grlica", the first Montenegrin magazine, until the end of World War Two); old Montenegrin newspaper between 1871 and 1945 (i.e. from "Crnogorac", the first Montenegrin newspaper, until the end of World War Two). Contemporary/current magazines and newspapers cover the titles from 1946 till today. Old Montenegrin periodicals contain 175 titles, or more than 12,000 issues. These periodic publications are mostly the unique and rare ones: "Grlica" (1835), "Orlić" (1865), "Crnogorka" (1871), "Crnogorac" (1871), "Glas Crnogorca" (1973), "Prosvjeta" (1889) ... as well as a number of new magazines and newspapers from late 19th and early 20th century. Most of these titles are, unfortunately, in a very bad shape; their conservation is needed).

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

- ***For the purpose of securing the evidence, the holders of copyright and related rights may deposit copies of their works and subject-matters of related rights with Intellectual Property Office of Montenegro. The copies of works and subject-matters of related rights to be deposited shall be in the form of a written document (manuscript, printed text, musical score), sound, visual or audio-visual recording or in digital form. The competent authority shall keep a record of each kind of works of authorship and subject-matters of related rights.***

When a work of authorship or subject-matter of related rights is being deposited and entered into records, the holder of copyright or related right concerned shall give true and complete data about his/her work of authorship or subject-matter of related right. The data entered in the records shall be deemed true until proven to the contrary. Any bona fide person, who has infringed somebody else's copyright or related right in reliance on the accuracy of the data entered in the records, shall not be liable for damages for such infringement. The entry in records and depositing of the copies of works of authorship and subject-matters of related rights, shall in no way affect the onset and duration of the rights determined by Law on Copyright and Related Rights.

Intellectual Property Office issues a certificate of logging/depositing of copyrighted work or subject matter of related rights work. This certificate could be used as evidence in court that the person is the holder of rights on copyrighted work or subject matter of related rights work.

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.

- ***It is allowed to make copies of deposited copyright works for the purpose of preservation of copyrighted works. It is allowed by Law on Copyright and Related rights and there is no need to provide a licence.***

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).

- ***Central National Library preserves all types of printed material as: books, brochures, magazines, newspapers, writings, music works, reproduction of art paintings and drawings, posters, public notices, maps, reprography material, phonodocuments, CDs, video and film records, microfilms and other works which are reproduced by printing.***

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?

- ***Legal deposit is required after publishing the work. Legal deposit of copyrighted work is required for material printed in Montenegro but published abroad.***

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

- ***There is no category of material which is exempted from legal deposit for policy reasons.***

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.

- ***There is no specific regulation in regard to material published in electronic format in the moment. The law is in draft.***

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

- ***According to Law on Publishing, 12 samples of work are required for legal deposit. It is an obligation of publisher or printing house. There are no special conditions for limited or de luxe editions.***

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

- ***Every printing house in Montenegro has an obligation to deposit 12 samples of every publication to Central National Library "Đurđe Crnojević".***

39. What are the time requirements for legal deposit?

- ***Current legislation doesn't predict statutory term to take this action.***

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

- ***The fee is not prescribed.***

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

- ***Central National Library "Đurđe Crnojević".***

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

- ***Deposited works are accessible to general public. Search can be made through electronic and public catalogues. Use of publicated works is regulated by Regulations on using holdings of legal deposit.***

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

- ***Yes, there is publicly available search facility, and it is accessible on-line.***

1) CNB ELECTRONIC CATALOGUE The CNL electronic Catalogue contains some 65,000 bibliographic entries (monographs and serial publications). The establishing of the electronic catalogue started in 1989 by entering the monographic publications. The library possessed only four terminals, and thus had limited capacities for automatic processing of the current inflow of titles. The solution was found in selective entry of library materials, giving priority to archive copies. Since March 2004 we started with automatic processing of serial publications. The electronic catalogue could be searched in three ways:

1. Basic search on 5 elements (author, title, year of publication, key words and publisher) using the asterisk (*) as a joker sign and with the possibility of narrowing down the search to the language and/or type of material and/or the possibility of electronic access

2. Selective search on 28 elements using the asterisk (*) as the joker sign and the logic operators AND, OR, NOT and the possibility of viewing entered data per each of the elements. Search may be narrowed down to the language and/or possibility of electronic access

3. Command search per all elements offered in the overview of prefixes and suffixes, using the asterisk (*) as a joker sign, logic operators AND, OR, NOT, as well as closeness operators - (WITH, NEAR). Search may be narrowed to the type of contents and/or possibility of electronic access.

It is still, however, the only source of information for publications processed traditionally. It is planned to have the retrospective conversion of the paper-based catalogue in order for the data on all publications to be computerised.

2) Mutual cataloguing system COBISS.CG was established on 13. 12. 2001. The libraries included in the system: Central National Library "Đurđe Crnojević", Cetinje (CNBCT) and the University Library Podgorica (UBPG). On the day of its establishment the mutual database included 22.437 bibliographic entries, created on the basis of both local databases. The total of 16,694 were transferred from the CNBCT local database, and 5,743 entries from the UBPG local database.

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 deposit, for monographic publications, is linked by International Standard Books Number (ISBN).
For serial publications, it is linked by International Standard Serial Number (ISSN).
Before the publication of the work, CIP code (Cataloguing in publication), is produced, and it is in database before its publication.**

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.

- **Printed material - 8.902**
- **Musical works - 5**
- **Audiovisual works - 197**

