

**QUESTIONNAIRE – ALAI CONGRESS 2018 – MONTREAL**

Since the congress theme should attract many copyright practitioners, the Canadian group has chosen to develop a questionnaire which you are asked to complete with succinct answers, in either **French, English or Spanish**. The answers will be compiled in an analytical table that will be given to congress participants so that they can leave with a document allowing them to quickly compare the situation prevailing in several countries.

It is therefore essential to complete the table below by briefly answering each question. We invite you to refer to the legal provisions that apply in your country, if any.

For national groups who would also like to provide additional information related to certain questions, we ask you:

1) to indicate **\*\* see also answer No. X below**" after the short answer that you have provided in the table.

2) to put your more detailed answer after the table.

Please note, however, that only the answers to the table will be compiled in the practical tool that will be given to the participants.

Country: <b>The Czech Republic, Europe</b>											
Name of the person answering the questionnaire: <b>JUDr. Věra Popelková</b>											
Name of the person filing the questionnaire: <b>Lukáš Weiss</b>											
<b>QUESTIONS FOR THE SUMMARY TABLE</b>	1) Are statutory damages available? If so, please indicate the criteria for awarding them and the amount of such damages.	2) If punitive damages are available, indicate the criteria for awarding them.	3) Are class actions or class remedies available in copyright matters? If so, indicate in what circumstances they are used.	4) If seizures before judgment are available, indicate what gives rise to such procedures and the criteria for granting them.	5) Are there in your country 1) criminal remedies; 2) customs measures, in connection with copyright? If so, which ones?	6) Describe how circumvention of technological protection measures is dealt with, if such is done.	7) Is there a mandatory notice and notice regime or notice and take down regime for intermediaries in the case of alleged copyright infringement? If so, describe it briefly, and indicate if how it is dealt with differs based on which rights holder requests it.	8) Does the notion of secondary copyright infringement in the digital world exist in your country? If so, describe it briefly.	9) Indicate for which rights collective management is available.	10) With respect to collective management, indicate who sets the tariffs and how they are set.	11) Indicate whether copyright remedies are within the power of specialized courts or common law courts, and in the case of a mixed system, please specify in which cases an action should be brought before one rather than the other.
<b>ANSWERS TO QUESTIONS FOR THE SUMMARY TABLE</b>	Yes, according to the Czech Copyright Act there are statutory damages available for copyright infringement committed by individuals or by legal entities. Such a legal sanction or penalty in the amount scale from 50 000,- CZK up to 500 000,- CZK could in general be	A kind of the so called punitive damage could in the civil law tradition according to the Czech Copyright Act be considered the unjust enrichment which the right holder is entitled to claim in amount of twice the usual royalty against the illegal user who has used protected repertoire of works	No, recently there are no class actions practically used in the Czech civil court procedures but in April 2018 the Czech government has approved the strategy for implementation such an procedural instrument into the Czech law. Similar to this type of court proceeding is applicable in the	The reason for any judicial enforcements of rights is usually the delay with fulfilment of statutory or contractual duties confirmed by the respective judgement or court decision.	There is a special provision in the Czech Criminal Code sanctioning the copyright infringement in relation to the author's work, artistic performance, audio and audio visual recording, tv or radio broadcasting and database as well as the forgery of the piece of fine	Any individual or legal entity committing the copyright offence by circumventing technological protection measures has to be punished by the fine up to 100.000,- CZK.	Except for general regulation of the so called "safe harbours" allowing intermediaries to provide online services without being obliged to examine legality of the content third parties as their customers are uploading and communicating via these services, there is no special	One brief statutory provision in the Czech Copyright Act exists which allows the author to insist on the prohibition to provide services used by third persons to infringing or even endangering of copyright.	<b>Intergram</b> - Independent company for performing artists, as well as manufacturing music and music videos, <a href="http://www.intergram.cz">www.intergram.cz</a>  Intergram in general administers collectively the rights of performing artists and producers of audio	According to the new statutory provisions of Copyright Act the collective management organization itself sets the tariffs which become applicable and effective towards the representative association of users which is negotiating the contractual terms with the	In procedural terms the copyright remedies are subject to action before the common or general courts within the Czech Republic and no mixed court system applies here.

	<p>imposed for illegal use of authors' work, artistic performance, audio or audio-visual recording, radio or tv broadcasting and database as well as for unauthorized violation of copyright as enumerated in the Sections 105a and 105b of the Czech Copyright Act.</p>	<p>or artistic performances without prior licensing approval.</p>	<p>Czech legislation regulating the bankruptcy law and allowing many creditors divided into groups as plaintiffs to enforce their claims against the debtor. But this way of solving insolvency is governed by special rules and is not a common or general type of court action.</p>		<p>arts. On the other hand in order to effectively enforce copyright claims in the court proceedings the author is according to the Czech Copyright Act allowed or entitled to ask customs authorities for information regarding the import of ware and goods which are used for copyright infringement or are illegal copies of protected subject matters themselves.</p>		<p>regulation similar to the "notice and action (take down)" procedure in the Czech Republic which would be applicable in cases of copyright infringement so far.</p>		<p>and audio-visual recordings in this scope:</p> <ul style="list-style-type: none"> <li>a) communication to the public right by TV or radio broadcast and its transmission,</li> <li>b) reproduction right,</li> <li>c) rental and lending right,</li> <li>d) right to communication to the public (not included in the previous provisions)</li> <li>e) right to the second and further use of performances produced for TV and radio public organizations.</li> </ul> <p><b>OSA</b> - The Copyright Protection Association for Music Rights processes personal data for the purpose of collective administration of copyrights, <a href="http://www.osa.cz/">http://www.osa.cz/</a></p> <p>The main activity of OSA is collective rights management. OSA is an important bridge between the authors and the users of their works. The authors provide services related to the selection and subsequent billing of royalties, including the processing of data from users and the use of legal services.</p>	<p>collecting society unless it doesn't object against the proposed tariff settings.</p>	
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									<p>Users can easily access the legal use of music from all genres around the world.</p> <p><b>Dilia</b> - Theatre, Literary and Audio-Visual Agency, Civic Association, <a href="http://www.dilia.cz">www.dilia.cz</a></p> <p><b>OOA-S</b> - Authors Copyright Protection Association - Association of authors works of art, architecture and visual components of audiovisual works, <a href="http://www.ooas.cz">www.ooas.cz</a></p> <p><b>GESTOR</b> - Copyright Protection Association - Collective management of copyrights for royalties on the resale of original works of fine art, <a href="http://www.gestor.cz">www.gestor.cz</a></p> <p>The Union for the Protection of Authorship provides authors with collective administration of their right to remuneration from a resale of an original work of art (royalties). The works to which the rights of droit de suite apply include originals of works of art, which is considered to be, in particular, original picture, drawing,</p>		
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									<p>painting, collage, tapestry, engraving, lithography or other graphics, sculpture, ceramics, author's jewel, photography or author's copy which is considered the original according to established custom. The rights of droit de suite do not apply to architectural works, works of applied arts, and manuscripts of writers and composers. Its activity adheres to Czech law, mainly the Copyright Act, Gestor's Statutes as amended, and related international agreements if need be.</p> <p><b>OAZA</b> - Music and Author Protection Agency, <a href="http://www.oaza.eu">www.oaza.eu</a></p>		
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**FURTHER QUESTIONS (OPTIONAL)**

QUESTION: Are there recent legislative or jurisprudential developments in your country that would be interesting to share with the ALAI public?

ANSWER : No significant judicial development in cases of copyright enforcement is present in Czech Republic so far.

QUESTION: Are there any special remedies in your jurisdiction that, to your knowledge, are less or not available in other jurisdictions?

ANSWER : As to the copyright remedies the Czech jurisdiction is standardly harmonized with the international conventions in the field of copyright protection as well as with the EU law and does not implement any special statutory provisions which could be considered as going beyond this standard international legal framework.