

Questionnaire – Copyright Law in the Czech Republic

I. INITIAL OWNERSHIP [SESSION 2]

A. To whom does your country's law vest initial ownership?

1 — *The author (human creator) of the work*

a. Yes. According to the Czech Copyright Act (Act No. 121/2000 Coll.), an author is defined as a natural person who has created the work (Article 5(1)). Author of a collection of works is the natural person who selected and arranged works in a creative way; the rights of authors of works included in the collection shall not be affected thereby (Article 5(2)).

b. Yes. Joint authorship is defined in Article 8 of the Act. If two or more authors jointly create a work that forms an inseparable whole, they are joint authors. Ownership belongs to all jointly, and exploitation requires agreement among them; otherwise, a court may decide.

2 — *Employers*

a. If the work is created by an employee within the scope of their employment duties, the economic rights are exercised by the employer (Article 58), unless otherwise agreed.

3 — *Commissioning parties*

a. No general rule. Rights remain with the author unless otherwise agreed.

b. Written agreement: A written contract is required if the commissioning party is to acquire an exclusive license or full ownership of the economic rights (Article 46 of the Czech Copyright Act – Act No. 121/2000 Coll.).

Explicit specification: The agreement must explicitly specify which rights are being transferred (e.g., reproduction, distribution, communication to the public) and the scope (territory, duration, manner of use).

Signatures: The contract must be signed by both parties – the author and the commissioning party.

Form requirements: For an exclusive license or full transfer of rights, the written form is mandatory. For a non-exclusive license, an oral agreement may suffice, but a written contract is highly recommended for clarity and evidence.

4 — Initiative by producer or publisher

For audiovisual works, the law presumes that authors grant the producer an exclusive license to use the work in all known ways unless agreed otherwise (Article 58(4)).

In audiovisual works, the producer gets broad exploitation rights but contributors keep authorship and moral rights. In collective works, the organizer holds rights to the whole, but individual contributors keep rights to their separate parts, if usable independently.

5 — Other instances

No other exceptions to initial ownership besides employment and audiovisual works.

6 — AI-generated works

AI-generated works are not protected unless there is human creative input.

B. Private international law consequences

Czech courts apply the law of the country where protection is sought (lex loci protectionis).

II. TRANSFERS OF OWNERSHIP [SESSION 3]

A. Inalienability

1 — Moral rights

- a. No. Moral rights are inalienable and non-transferable (Article 11).
- b. No. Authors cannot waive their moral rights.

2 — Economic rights

- a. Under Czech copyright law, economic rights cannot be assigned. Instead, the author may only grant a license, either exclusive or non-exclusive, to another party to exercise these rights.

Czech law operates under a licensing model, meaning that rights remain with the author, and third parties may only exercise them on the basis of a license agreement (as provided in Section 46 of the Czech Copyright Act).

Moreover, an author cannot waive their economic rights by contract. The law does not allow a blanket waiver or relinquishment of these rights. What is possible is contractual licensing, whereby the author authorizes another person to exploit the work under specific conditions.

- b. Yes. The law limits transfers to known forms of use unless expressly extended (Article 50(2)).

Economic rights can be transferred only for forms of exploitation known at the time of the contract conclusion, unless the agreement explicitly covers future unknown uses.

If a new form of use emerges later (e.g., a new type of digital distribution), and it was not explicitly mentioned in the contract, the author retains the rights for this new form.

B. Transfers by operation of law

1 — Presumptions of transfer

- a. To what categories of works do these presumptions apply? Presumptions of transfer apply mainly to:
- Employee-created works (works created within the scope of employment duties) - Article 58(1) of the Copyright Act.
 - Audiovisual works (films and similar works) - Article 58(4) of the Copyright Act.
- b. Are they rebuttable? What must be shown to prove that the presumption applies (or has been rebutted)?
- Yes, presumptions are rebuttable.
 - The parties (author and employer or producer) may agree otherwise in a written or otherwise provable agreement.
 - To rebut the presumption, one must show that:
 - There is an express contractual provision deviating from the statutory presumption, or
 - The work was not created within the scope of employment, or
 - In case of audiovisual works, that the author reserved certain rights.
- c. Scope of the transfer: all rights? Rights only as to certain forms of exploitation?

- Employee-created works:
 - The employer exercises all economic rights to the work, unless otherwise agreed.
- Audiovisual works:
 - The producer is presumed to have an exclusive license for all known forms of exploitation at the time of the conclusion of the contract, unless agreed otherwise.

2 — Other transfers

No other automatic transfers exist.

C. Transfers by contractual agreement

1. Writing is mandatory for the validity of:

- Transfer (assignment) of economic rights, and
- Granting of an exclusive license (Article 46(4) of the Czech Copyright Act, Act No. 121/2000 Coll.).

The contract must be signed by both parties.

No witness requirement.

No registration or recordation of the transfer is required for it to be valid between the parties.

2. Yes. The agreement must clearly specify:

- The types of rights (e.g., reproduction, distribution, communication to the public),
- The scope of the license or transfer (territory, time period, ways of use).

If the contract is unclear or ambiguous, it is interpreted in favor of the author (Article 50(1)).

3. No. Czech law requires specificity in identifying the economic rights being transferred (Article 50(1)). A **general clause** like “transfer of all rights” without specification is **invalid** or interpreted narrowly, benefiting the author.

4. No. Under Czech law, rights to future works cannot be transferred outright (Article 50(1)). Only a **preliminary contract** (contractual obligation to enter into a future license or assignment agreement) can be made regarding works that are yet to be created.

D. Private international law

The Czech Republic applies the law of the country where protection is sought (*lex loci protectionis*) to determine the alienability of moral and economic rights and other related conditions.

III. CORRECTIVE MEASURES [SESSION 4]

1 — Remuneration guarantees

a. Czech law requires the payment of proportional remuneration in specific cases, for example:

- Private copying levies: Remuneration is paid through levies on devices and blank media (Article 25 of the Copyright Act).
- Rental and lending of works: Authors and performers have a right to remuneration for the rental of copies of their works (Articles 95–96).

These rights to remuneration are usually managed collectively.

b. Yes.

- Under Article 49(1) of the Czech Copyright Act, an author or performer is entitled to appropriate and proportionate remuneration unless otherwise agreed.
- This applies generally to any use of their works or performances.

c. Yes.

- Under Article 49(6) of the Czech Copyright Act, if the agreed remuneration becomes manifestly disproportionate compared to the profits gained from the

exploitation of the work or performance, the author or performer can claim additional fair remuneration.

- This mechanism is sometimes referred to as a best-seller clause.

d. Yes.

- In certain cases, authors and performers have unwaivable rights to remuneration that cannot be assigned or waived, such as:
 - Right to remuneration for rental (Article 96),
 - Right to remuneration for public lending (Article 97),
 - Right to remuneration for private copying (Article 25).

2 — Obligation to exploit

a. No, not generally.

- Czech copyright law does not impose a general obligation for the grantee to exploit the work continuously or for each granted mode of exploitation.
- However, if the grantee fails to exploit the work for a long time, specific remedies become available to the author.

a. According to Article 49(5) of the Czech Copyright Act:

- If the grantee does not exploit the work for more than 5 years, and if:
 - The exploitation was possible, and
 - The author has formally invited the grantee to exploit the work, but the grantee continues to neglect exploitation,
- Then the author has the right to terminate the license (withdraw the license).

3 — Transparency obligation

a. Yes.

- Czech copyright law, after the implementation of the EU DSM Directive (Directive (EU) 2019/790), imposes a transparency obligation under Article 50a of the Czech Copyright Act.
 - The grantee (licensee or assignee) must provide the author or performer, at least once a year, with comprehensive information including:
 - The ways the work has been exploited,
 - The revenues generated from the exploitation,
 - Information about sublicensing (whether and to whom the rights have been sublicensed),
 - The amount of remuneration owed to the author or performer.
- b. If the grantee fails to fulfill the transparency obligation:
- The author or performer may request the missing information directly.
 - If the grantee continues to fail, the author can:
 - Initiate court proceedings to compel disclosure,
 - Potentially claim damages caused by the lack of information,
 - Terminate the license in extreme cases, especially if the breach of the transparency obligation is serious and affects the author's interests.

4 — Right of unilateral termination

a. i. Yes. According to Article 49(5) of the Czech Copyright Act:

- If the grantee (licensee) fails to exploit the work for more than 5 years despite the exploitation being possible and despite a formal written invitation from the author, the author may unilaterally terminate the license.
- The 5 year period can be modified by contract.

ii. Yes.

- General rules of the Civil Code (Act No. 89/2012 Coll.) apply:

- If the grantee seriously breaches the license agreement (e.g., by non-payment of remuneration or unauthorized use of the work),
- The author may withdraw from the contract (terminate it) without court intervention under the general contract law (§ 2001 and following of the Civil Code).

iii. No.

- Czech law does not recognize the "right of repentance" as known in some other jurisdictions (e.g., French copyright law).
- There is no statutory right allowing authors to unilaterally terminate grants purely on moral or personal grounds.
- No known Czech court cases recognize such a right.

IV. STREAMING, TRANSFER OF RIGHTS, AND THE MANAGEMENT OF LARGE CATALOGUES [SESSION 5]

1 — Applicable statutory right

a. i. Yes. For authors, Czech law (Article 18 of the Copyright Act, Act No. 121/2000 Coll.) grants the right of communication to the public, specifically including the right of making available to the public.

- This right is based on Article 8 of the WCT (WIPO Copyright Treaty).
- For performers and phonogram producers, the Czech law mirrors the WPPT (WIPO Performances and Phonograms Treaty), specifically:
 - Article 10 (right of making available for performers),
 - Article 14 (right of making available for producers of phonograms).

Thus, streaming falls under the right of making available (interactive access at a time and place individually chosen by the user).

ii. No. Streaming is specifically covered under the right of making available to the public, and there is no additional or separate right needed in Czech law.

b. Yes. For authors, the right of communication to the public and making available covers both musical and audiovisual works (films, songs, etc.).

For performers, the right covers performances fixed in phonograms (sound recordings) and performances fixed in audiovisual recordings (films, videos, etc.).

2 — Transfer of rights

a. Yes. According to Article 50(2) of the Czech Copyright Act (Act No. 121/2000 Coll.),

The scope of the transfer or license is limited to forms of exploitation known at the time of contract conclusion, unless the contract explicitly provides for future or unknown forms of use.

If the contract does not specifically mention a new form of exploitation, the rights to that form remain with the author

b. Yes. When the right of making available to the public (for streaming) was introduced, particularly following the WCT and WPPT treaties and harmonization with EU law,

It was considered a new form of exploitation.

Thus, for older contracts (concluded before the introduction of this right), the limitation under Article 50(2) applied — meaning that streaming rights were not automatically included unless the contract was updated or explicitly extended.

b. Yes. For audiovisual works, under Article 58(4) of the Czech Copyright Act:

- It is presumed that the authors grant the producer an exclusive license to exploit the audiovisual work in all known ways (including making available/streaming), unless otherwise agreed.

For phonograms, under Article 74:

- A similar presumption exists that the performer grants rights to the producer of the phonogram, enabling the producer to exploit the recording, including by streaming.

These presumptions can be rebutted by express agreement stating otherwise.

3 — Remuneration

a. Yes. Under Czech law, authors and performers are entitled to appropriate remuneration for the licensing of their works and performances for streaming (Article 49 of the Czech Copyright Act, Act No. 121/2000 Coll.).

Unless otherwise agreed, remuneration must be appropriate and proportionate to the value and scope of the use.

The remuneration may be negotiated individually or, in some cases (e.g., music), managed collectively through collective management organizations.

b. Yes. Even if an author or performer grants an exclusive license or transfers economic rights, they may retain a residual right to remuneration, particularly when:

- Rights to remuneration are mandatorily collective and unwaivable (e.g., for rental or private copying — although streaming is usually licensed individually).
- Contractual clauses or mandatory statutory provisions ensure fair remuneration regardless of the transfer.

4 — Collective management

a. Yes, collective management is available and, in some cases, mandatory.

- For streaming, collective management is available but not generally mandatory for authors or performers.
- Rights to license streaming (right of making available to the public) are usually managed individually unless:
 - The author or performer assigns the right to a collective management organization voluntarily, or
 - Specific industries (e.g., music) encourage collective licensing through collecting societies like OSA (for musical works) and INTERGRAM (for performers and phonogram producers).
- Mandatory collective management applies for some related rights (like remuneration rights for rental or public lending), but not specifically for the right of making available (streaming).

b. Yes, for some residual rights, collective management is prescribed.

- For residual rights (e.g., remuneration for rental or private copying), Czech law requires mandatory collective management.
- These rights cannot be exercised individually by authors or performers — they must be managed by licensed collective management organizations (e.g., OSA, DILIA, INTERGRAM).

Form of management:

- In these cases, collective management is mandatory.
- In some sectors (especially music and audiovisual), extended collective licensing is allowed, meaning that licenses may cover both members and non-members unless they object.

— Transparency and the management of large catalogues

a. Yes. Authors and performers must receive regular information from licensees and assignees about:

- The ways the work or performance has been exploited,
- The revenues generated by the exploitation,
- The remuneration due,
- Information on sublicensing if any.

Guaranteed periodicity:

- Information must be provided at least once per year unless it would be disproportionate based on the grantee's contribution.

b. No significant case law in the Czech Republic.

- As of now, there are no well-known Czech court cases directly similar to *Eight Mile Style v. Spotify* concerning the transparency and management of large streaming catalogues.
- However, practical problems have been reported:

- Collective management organizations (like OSA, INTERGRAM) have raised concerns about difficulty identifying rightsholders and incomplete or inconsistent reporting from streaming platforms.
- These challenges are typically addressed through contractual negotiations or sectoral agreements rather than high-profile litigation.