

**UNESCO**  
WORLD ANTI PIRACY OBSERVATORY

**CZECH REPUBLIC**

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<b>I. LEGISLATION .....</b>	<b>3</b>
1. Copyright Laws .....	3
2. Other Laws.....	3
3. Latest developments and perspectives .....	3
4. Summary of Legislation .....	4
5. International Treaties.....	7
<b>II. MEASURES AND REMEDIES.....</b>	<b>7</b>
1. Copyright infringement .....	7
2. Remedies to protect copyright holders .....	7
3. Provisional measures .....	8
4. Penalties for copyright infringement .....	9
5. Requirements for foreign persons .....	10
<b>III. ENFORCEMENT .....</b>	<b>10</b>
1. Enforcement authorities.....	10
2. Enforcement at the border .....	11
<b>IV. PUBLIC AWARENESS .....</b>	<b>12</b>
1. Awareness campaigns and actions .....	12
2. Promotion of legal exploitation .....	12
3. Organizations with awareness-raison purpose .....	12
4. Best practices.....	12
<b>IV. CAPACITY-BUILDING .....</b>	<b>13</b>
1. Training .....	13
2. Establishment of specialised units and intersectoral groups.....	13
3. Best practices.....	13
<b>V. OTHER.....</b>	<b>14</b>

<b>1. TPM/DRM.....</b>	<b>14</b>
<b>2. Licensing Schemes.....</b>	<b>15</b>
<b>3. Optical Discs .....</b>	<b>15</b>
<b>4. Hotlines .....</b>	<b>15</b>
<b>5. Relevant contacts &amp; links.....</b>	<b>15</b>

## I. Legislation

### 1. Copyright Laws

[Act No. 121/2000 Coll. on Copyright and Rights Related to Copyright and on Amendment to Certain Acts](#) (entry into force: 1 December 2000)

Amended by:

[Act No. 81/2005 Coll.](#) (entry into force 23 February 2005)

Act No. 61/2006 Coll. (entry into force 8 March 2006)

Act No. 186/2006 Coll. (entry into force 1 January 2007)

Act No. 216/2006 Coll. (entry into force 22 May 2006)

Act No. 168/2008 Coll. (entry into force 19 May 2008)

[Decree No. 488/2006 Coll.](#) defining types of devices for making reproductions, types of blank record carriers and the amount of lump-sum remuneration (entry into force: 10 November 2006)

Amended by:

Decree No. 408/2008 Coll. (entry into force: 1 January 2009)

### 2. Other Laws

[Act No. 140/1961 Coll. Penal Code](#), as amended

(entry into force: 1 January 1962)

The Act has been amended many times, especially after the political change in 1989.

[Act No. 40/1964 Coll. Civil Code](#), as amended

(entry into force: 1 March 1964)

The Act has been amended many times, especially after the political change in 1989. The most important amendment was Act. No. 509/1991 Coll. ( entry into force: 1 January 1992).

[Act No. 99/1963 Coll. Code of Civil Procedure](#), as amended

(entry into force: 1 January 1964)

The Act has been amended many times, especially after the political change in 1989.

[Act. No. 500/2004 Coll. Administrative Procedure Act](#), as amended

(entry into force: 1 January 2006)

[Act. No. 191/1999 Coll. on Some Measures Regarding Import, Export and Reimport of Goods Infringing Certain Intellectual Property Rights and on Amendment to Certain Acts](#), as amended

(entry into force: 1 December 2009)

### 3. Latest developments and perspectives

Note that the Czech copyright law has been amended in the recent years as to reflect technological progress and consequential new issues. Thus, Czech Republic does not plan any amendments related to anti-piracy issues at present.

#### 4. Summary of Legislation

The Copyright Act is based on the principle of dualism. Generally, the exclusive rights of the authors and the owners of neighbouring rights are divided into two categories: moral rights and economic rights.

- *Rights of authors*

Moral rights, they include

- Art. 11 (1) right to decide about making his work public
- Art. 11 (2) right to claim his authorship
- Art. 11 (3) right to inviolability of his work
- Art. 11 (3) right of supervision

Economic rights, they include

- Art. 12 (1) right to use his work
- Art. 12 (1) right to grant authorisation on a contractual basis to any other person to exercise the right
- Art. 12 (3) right to demand of the owner of the object through which the work is expressed to make such an object available to the copyright holder

Other economic rights, they include

- Art. 24 resale right ( droit de suite)
- Art. 25 right to remuneration in connection with reproduction of work for personal use and for legal person's own internal use
- Art. 49 (6) right to an equitable supplementary equitable royalty
- Art. 49 (3) right to a reasonable remuneration from the person who rents the original or a copy of the fixed work
- Art. 37 (2) right to adequate royalty in respect of lending

- *Related rights owners*

The related rights owners are Performers, producers of phonograms, producers of audiovisual fixations and broadcasters.

#### Rights of performers

Moral rights, they include

- Art. 70 (1) right to decide about making his performance public
- Art. 70 (4) right to protection against any disfigurement, deformation or any other alteration of his performance, which may affect his reputation

Economic rights, they include

- Art. 71 (1) right to use his performance
- Art. 71 (1) right to grant authorisation on a contractual basis to any other person to exercise the right

Other economic rights, they include

- Art. 25 right to remuneration in connection with reproduction of work for personal use and for legal person's own internal use
- Art. 72 (1) remuneration in connection with a use of a phonogram for commercial purposes by radio or TV broadcasting or transmitting of broadcasting.
- Art. 49 (6) right to an equitable supplementary royalty
- Art. 49 (3) right to a reasonable remuneration from the person who rents the original or a copy of the fixed work

- Art. 37 (2) right to adequate royalty in respect of lending

### Rights of phonogram producers

Economic right, they include

- Art. 76 (1) right to use his phonogram and to grant by contract the authorisation to the exercise of this right to any other person
- Art. 49 (3) right to a reasonable remuneration from the person who rents the original or a copy of the fixed work
- Art. 37 (2) right to adequate royalty in respect of lending

### Rights of audiovisual fixation producers

Economic right, they include

- Art. 80 (1) right to use his audiovisual fixation and to transfer by contract the authorisation to exercise this right to another person
- Art. 49 (3) right to a reasonable remuneration from the person who rents the original or a copy of the fixed work
- Art. 37 (2) right to adequate royalty in respect of lending

### Rights of broadcasters

Economic right, they include

- Art. 84 (1) right to use his broadcast and to grant by contract the authorisation to exercise this right to another person
- Art. 49 (3) right to a reasonable remuneration from the person who rents the original or a copy of the fixed work

- *Exceptions and limitations to Copyright*

Czech copyright law provides for certain exceptions as cited hereunder. Article 29 contains so called **three-step test**. Every copyright exception is to be in conformity with the three-step test, otherwise it could not be invoked.

#### Article 29

*(1) Copyright exceptions and limitations shall only be applied in certain special cases specified herein and only if the use of a work in such special cases shall not conflict with the normal exploitation of the work and shall not unreasonably prejudice the legitimate interests of the author.*

*(2) Free uses and compulsory licences, except official and reporting licences (Article 34), licence for a school work (Article 35 3), licence for temporary reproductions (Article 38a), licence for photographic portrait (Article 38b) and licence for immaterial accessory exploitation of the work (Article 38c), shall only apply to works that have been made public.*

Free Uses and Compulsory Licences are listed in art 30 to 39 in the Copyright law and consist of:

- Reproduction on Paper or Other Similar Base for personal/internal use
- Quotations
- Promotion of Exhibition of Works of Art and Sale Thereof
- Use of a Work Located in Public Place
- Official and Reporting Licences

- Use of Work as Part of Civil and Religious Ceremonies or as Part of Official Events Organised by Public Authorities or during School Performances, and Use of School Work
- Limitation of Copyright to Collection of works
- Library Licence
- Licence for Disabled
- Licences for temporary Reproductions
- Licence for Photographic Portrait
- Incidental Use of a Work
- Licence to Works of Applied Art and Works of Architecture
- Licences for Social Facilities
- Use of an Original or a Reproduction of Work of Fine Arts or of a Photography or a Work Expressed in Manner Analogous to Photography by its exhibition

Performing artists' rights also have limitations set forth in article 72 (1) of the Copyright Act.

*Compulsory Licence Granted for Consideration*

*The right of the performer shall not be infringed by anybody who uses the artistic performance fixed as a phonogram published for commercial purposes by radio or television broadcasting or by retransmitting the broadcast; the performer shall, however, be entitled to a remuneration for such use. This right may only be exercised by the performer through the relevant collective rights manager.*

- *Copyright law and "Foreign works"*

Czech copyright legislation applies to foreign works in the following cases:

- in accordance with the international treaties binding on the Czech Republic
- if the reciprocity is assured ( in absence of any international treaty)
- if the work is first made public in the Czech Republic
- if the author resides in the Czech Republic.

- *Duration of Copyright Protection*

**Authors:** protection lasts during the life of the author and 70 years after his/her death. If a work has been created as the work of joint authors, the period of duration of economic rights shall be calculated from the death of the last surviving author.

**Performers:** protection lasts for 50 years from the creation of the performance. However, where a fixation of such a performance is made public during this period; the rights of the performer shall not expire until 50 years from the time when such a fixation was made public.

**Phonogram producer:** protection lasts for 50 years from the making of the phonogram. However, where a phonogram is lawfully made public during this period; the right of the producer shall not expire until 50 years from the date when such a phonogram was made public. If during the period referred to in the first sentence the work is not lawfully made public and the work is, during that period, lawfully communicated to the public, the right of the producer shall not expire until 50 years from the date of such communication to the public.

**Audiovisual fixation producer:** right of the producer of an audiovisual fixation shall run for 50 years from its first fixation. However, where the audiovisual fixation has been lawfully made public during this period, the right of the producer of the audiovisual fixation shall not expire until after 50 years after the date when the audiovisual fixation was so made public.

**Broadcaster:** the right of the broadcaster shall run for 50 years from the first broadcast.

- *Presumptions of authorship*

There is no registration under Czech law. Under Art. 9 (1) copyright arises at the moment when the work is expressed in any objectively perceivable form. We emphasise that there is no registration of works in the Czech Republic – mandatory nor voluntary.

## 5. International Treaties

Czech Republic is a member of the following International Convention and Treaties on Copyright and Related Rights:

- [Berne Convention on the Protection of Literary and Artistic Works](#), since 1993
- [Universal Copyright Convention](#), since 1993
- [Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations](#), since 1993
- [WTO TRIPS Agreement on Trade Related Aspects of Intellectual Property Rights](#), since 1995
- [WIPO Copyright Treaty \(WCT\)](#), since 2002
- [WIPO Performances and Phonograms Treaty \(WPPT\)](#), since 2002
- [Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms](#), since 1993

## II. Measures and remedies

### 1. Copyright infringement

Czech law recognises two levels of copyright infringements.

The first level is **administrative**, for infringements of lesser gravity. These infringements are in the competence of administrative bodies. The perpetrator is most often punished by fine.

The second level is **criminal**, for serious infringements. The Penal Code contains copyright infringement in Section 152. The competent authority to hold the proceeding is a Court. The perpetrator may be punished by imprisonment up to 5 years.

Pursuant to the doctrine, copyright infringement is an act, by which the rights guaranteed by the Copyright Act are infringed or threatened. There is no general definition. Casuistic definitions are in Art. 43 and 44, 105a, 105b, 30 (3) of the Copyright Act.

**The criterion to distinguish between the two levels is the seriousness of the act of the perpetrator.** According to the level of seriousness, a case is to be dealt either by the administrative body as an administrative infringement, or by the court as a criminal act.

Procedure on administrative infringements is to be found in Act No. 200/1990 Coll, as amended.

There are no specific provisions concerning Internet piracy in Czech law.

### 2. Remedies to protect copyright holders

CIVIL REMEDIES according to the Copyright Act:

Art. 40 (1) (a) right to claim recognition of authorship before court

Art. 40 (1) (b) right to claim prohibition of exposure of his right before court

Art. 40 (1) (d) right to claim remedying the consequences of the infringement before court (destruction of illegally made reproductions, tools or material used in the process of making such reproductions etc.)

Art. 40 (1) (e) right to claim adequate satisfaction for the non-financial damage before court (apology / financial compensation)

Art. 40 (3) right to publicise the decision of the court at the expenses of the unsuccessful party

Art. 40 (4) right to claim damages and unjust enrichment according to Article 420 and 455 of the Civil Code No. 40/1964 Coll.

CRIMINAL MEASURES according to Penal Code No. 140/1961 Coll.

Pursuant to Art. 152 of the Penal Code, a person is punishable for committing an offence against copyright and neighbouring rights.

*(1) Whoever unlawfully infringes the legally protected rights to a copyright work, artistic performance, sound or audiovisual recording, radio or television broadcast or database, shall be punished by up to two years of imprisonment or a financial penalty or forfeiture [of an object or asset related to the crime – see below].*

*(2) The perpetrator shall be punished by imprisonment ranging from six months to five years or financial penalty or forfeiture,*

a) if he/she has obtained substantial benefit by the offence described in paragraph 1 or

b) if he/she has committed the offence on a substantial scale.

### **3. Provisional measures**

The rights-holder whose right is in danger of infringement, has been infringed or is in danger of being unlawfully infringed again may ask the Court to order the implementation of a provisional measure under Art. 74 of the Code of Civil Procedure. The provision of Art. 78b regulates the procedure for the preservation of evidence in cases concerning intellectual property rights.

#### **§ 74**

*(1) Before the commencement of the proceedings, the chairman of the panel may order a provisional measure if it is necessary to regulate provisionally the relations of the parties or if there is a danger that the enforcement of the judicial decision could be jeopardised.*

#### **§ 78b Safeguarding of evidence in cases concerning intellectual property rights**

*(1) In cases concerning intellectual property rights it is possible, prior to the commencement of the proceedings on merits, to grant the petition of the person who asserted infringement of an intellectual property right and, for the purpose of furnishing proof (Art. 130 para. 1), safeguard*

a) the goods, or a reasonable sample thereof, whose production may have constituted infringement of an intellectual property right,

b) material and tools that have been used to produce or distribute the goods mentioned under letter a),

c) documents concerning the goods mentioned under letter a).



(2) The safeguarding under paragraph 1 is only admissible if the goods, material, tools or documents have not been safeguarded under Art. 78 or 78a, or if the last-mentioned safeguarding of evidence could not cover all circumstances relevant for a decision on merits.

#### 4. Penalties for copyright infringement

- *Penalties applied in civil cases*

Plaintiff claims under Art. 40 of the Copyright Act:

- damages
- unjust enrichment - *in lieu* of the actual loss of profit, the author may claim compensation for the loss of profit in an amount that would have been normally paid for obtaining the respective licence at the time of unauthorised disposition of the work. The amount of unjust enrichment gained on the part of whoever unlawfully disposed of the work without being granted the necessary licence shall be deemed to be double the remuneration that would have been awarded under normal conditions at the time of unauthorised disposition of the work.
- adequate satisfaction for the non-financial damage (apology/financial compensation)
- right to publicise the decision at the expenses of the unsuccessful party

- *Penalties for a person who is guilty of a criminal offence*

Under Art. 152 (1) of the Penal Code, the perpetrator may be punished by *up to two years of imprisonment, financial penalty (up to CZK 5 million) or forfeiture*. If any of the special circumstances listed in paragraph 2 of Article 152 apply, the perpetrator faces a penalty of imprisonment ranging from 6 months up to 5 years, financial penalty (up to CZK 5 million) or forfeiture.

**Please note that** the Czech Courts may also impose **the penalty of forfeiture**, especially in cases where the objects or other assets in question have been used in criminal activity or obtained through such activity (Art. 55 of the Penal Code).

The right-holder may also claim **destruction** of illicitly made reproductions, materials, tools used for producing the illicitly made reproduction pursuant to Art. 40 (1) (d) as cited below (in the civil proceeding).

- *Publication of the judgement in newspapers or professional magazines*

Pursuant to Art. 40 (3) of the Copyright Act.

*(3) The court may recognise in its judgment the right of the author, whose claim has been acquitted, to publicize the decision at the expenses of the unsuccessful party and, depending on circumstances, also determine the scope, form and way of such publication.*

- *Damages*

In civil proceedings, a party that has been successful in the litigation is entitled to the payment of costs incurred by him/her/it, especially to payment of expenses of the parties and their agents and representatives, including the court fee, lost salary compensation for parties and their legal guardians, cost of furnishing evidence and remuneration for representation.

*Article 142 of the Code of Civil Procedure*

*(1) The court shall award to the party that has been fully successful in the litigation the reimbursement of all costs needed for an effective enforcement or defence of its right against*

*the unsuccessful party.*

*(2) If a party has been only partly successful, the court shall determine the ratio of reimbursement or else shall rule that none of the parties is entitled to reimbursement of costs incurred.*

## **5. Requirements for foreign persons**

There are no special requirements or documents with respect to foreign nationals in the Czech legislation.

# **III. Enforcement**

## **1. Enforcement authorities**

- authorities of municipalities with extended competence
- regional authorities
- Courts
- state prosecutor offices
- police
- customs

In penal procedure and in administrative procedure, these enforcement bodies are entitled to act ex-officio.

*§ 2 Fundamental principles of penal procedure (Code of Penal Procedure)*

*(3) The state prosecutor shall prosecute all criminal offences of which he/she learns, unless the law or an international treaty that has been promulgated and is binding on the Czech Republic state otherwise.*

*(4) Unless stipulated otherwise in this Act, the bodies responsible for penal proceedings shall act ex officio.*

- *Copyright enforcement and Courts' jurisdictions*

The enforcement of intellectual property rights falls within the jurisdiction of regular courts: i.e. there is no specialised branch of judiciary that would deal with intellectual property cases.

The general rule is that first-instance cases are heard by district courts. However, when the dispute concerns intellectual property rights, the decisions are entrusted to regional courts (i.e. second-tier courts). The reason for this is the greater complexity of such cases placing greater demands on the court and also the need to ensure maximum possible consistency in decision making. Appeals against a regional court's decision are heard by a high court. Regional courts operate in all 15 higher territorial administrative units of the Czech Republic; in Prague the functions of a regional court are fulfilled by the Prague Municipal Court. High courts are located in Prague and Olomouc.

Jurisdiction rules are contained in Article 9 of the Code of Civil Procedure.

According to the provision of Article 16 of the Code of Penal Procedure, criminal cases concerning copyright offences fall within the jurisdiction of district courts. Appeals against their decisions are heard by regional courts.

## 2. Enforcement at the border

Like other Member States of the EU, the Czech Republic follows the procedure set by Council Regulation (EC) No. 1383/2003, which is complemented at the national level by Act No. 191/1999 Coll. on measures concerning import, export and re-export of goods infringing intellectual property rights, also amending other laws, as amended by later legislation (note: unless the case in point concerns the exercise of powers at the EU border, the Customs Administration of the Czech Republic may also apply procedure under Act No. 634/1992 Coll. on consumer protection, as amended, or Copyright Act No. 121/2000 Coll.).

Under the cited Regulation No. 1383/2003, the customs authorities are authorised to detain the goods or suspend their release into the proposed customs regime if there is reasonable suspicion that such goods infringe an intellectual property right. The person exercising copyright may ask the customs authorities to take action to prevent the entry of the goods infringing his/her/its right (application filled in a sample form contained in an annex to Commission Regulation (EC) No. 1891/2004), or the customs authorities may act ex officio.

The administrative division authorised to deal with applications for action is the Customs Directorate in Hradec Králové, which sends out the approved application to the relevant customs offices (typically all customs offices in the Czech Republic).

- *Preventing infringements/abuses*

The customs offices detain the goods/suspend their release only if there is suspicion of intellectual property rights infringement. Actual infringement of intellectual property rights must be proved in civil proceedings before a court. No special security or other equivalent assurances are imposed. If the alleged infringement is not proved, the applicant who demanded action must pay all costs incurred by the Customs Administration in connection with the intervention. The importer may take his/her/its claims to court.

If the customs office detains the goods/suspends their release into the proposed customs regime, it shall inform the goods importer/declarant/owner (if known to the customs office) of the fact and simultaneously communicate the information on the actual or assumed quantity of the goods and their nature to the applicant measure, or to the person exercising the given right (when acting ex officio).

- *Limitation for the suspension of goods by customs authorities*

Customs authorities are entitled to act ex-officio. In doing so, the goods are detained for 3 workdays, within which the application for action must be submitted. The time limit for initiating (judicial) proceedings to determine that infringement of the relevant intellectual property rights did indeed take place begins to run on the day after the submission date. The deadline for initiating the proceedings may be postponed by 10 workdays. When the customs authority acts on request, the time limit for initiating proceedings to determine whether infringement did or did not take place runs for 10 workdays (from the submission date) and may be extended by another 10 workdays.

- *Destruction/disposal of infringing goods*

When deciding whether to impose a fine the customs authority shall simultaneously decide whether to order forfeiture or seizure of the products or goods in question.

- *de minimis import exception*

Council Regulation No. 1383/2003 does not enable the customs authorities to take measures against goods that travellers import within the duty-free limit in their personal luggage. In other cases (e.g. sending a parcel of a non-commercial nature) the cited Regulation does apply.

## IV. Public Awareness

### 1. Awareness campaigns and actions

### 2. Promotion of legal exploitation

In the field of education the [Czech Ministry of Culture](#) provided financial support in 2007 to several educational and informative projects of the CAPU, such as „Films are not for free II, III“ (designated for grammar school pupils and high school students and related to the issues of piracy of audiovisual works);

Czech Ministry of Culture realised during 2007 a total of 11 educational programmes (seminars and lectures on copyright), which were intended not only for the public but also for the state institutions and bodies involved in the process of the enforcement of such rights. These activities will be continuing to be organised by the Ministry as its capacity permits. The educational programs which seek to increase the awareness of the necessity to protect copyrighted work are a part of the Plan of the Main Tasks of the Ministry of Culture for 2008, as well as of the special measures under the prepared government proposals for the Cultural Policies in 2008-2014.

The [Industrial Property Office \(IPO\)](#) completed in December of 2007 the preparatory stage of the project „Support of Enforcement of the Intellectual Property Rights“ which was initiated in 2005. The website of this inter-resort information system, available at [www.dusevni vlastnictvi.cz](http://www.dusevni vlastnictvi.cz) contains information on industrial property rights, copyrights and related rights, on the institutions involved in the protection and enforcement of the IPRs, including the scope of their competencies and relevant legislation.

### 3. Organizations with awareness-raison purpose

Copyright/ intellectual property bodies:

- Copyright department of the Ministry of Culture
- Ministry of Industry and Trade
- Czech Trade Inspection
- Industrial Property Office (IPO)
- Czech Customs Administration

NGOs: Czech anti-piracy union (CAPU)

### 4. Best practices

The number of films cam-ripped in Czech cinemas has declined lately. E.g. the cam-ripping of the film *Bathory* was prevented thanks to the initiative of the spectators, a fact that bears witness to the rising public awareness of the need to protect the rights of authors.

According to information supplied by the Czech Anti-piracy Union, goods infringing intellectual property rights have become less widespread at the marketplaces along the Czech border, which is due especially to the frequent checks carried out by the Czech Trade Inspectorate.

## IV. Capacity-building

### 1. Training

### 2. Establishment of specialised units and intersectoral groups

### 3. Best practices

Initiatives/actions are undertaken:

With respect to the legal liability of the owners of the land (where marketplaces are located), the current legislation imposes on the marketplace operators an obligation to keep records of the individual vendors and to submit these records for inspection to the competent supervising authorities (under the provisions of §14a of the Act No. 634/1992 Coll., The Consumer Protection Act). An amendment of the Consumer Protection Act was already published in the Collection of Acts (Issue No. 36/2008). This amendment, which transposes the EU Directive on unfair commercial practices, allows the customs officers to control the market operators with respect to their compliance related to the maintenance of the databases of the individuals' vendors. Such records should assist these officers to identify the individual vendors who are violating the law; the legal liability of the market operators should also be strengthened by the increased co-operation between the executive and supervising agencies and the mayors of the affected municipalities.

Eventually, new Criminal Act is to be adopted during the year 2009, find below the probable new wording of the Act, as it has been submitted to the Senate of the Czech Republic recently. If it will be adopted in the wording mentioned below, it means a significant increase in severity of the punishments for copyright infringements.

#### *Article 270 Infringement of copyright, neighbouring rights and database-related rights*

*(1) Whoever infringes, unlawfully and not to a negligible extent, the legally protected rights to a copyright work, artistic performance, sound or audiovisual recording, radio or television broadcast or database, shall be punished by up to two years of imprisonment, by disqualification or forfeiture.*

*(2) The perpetrator shall be punished by imprisonment ranging from six months to five years or a financial penalty or forfeiture,*

*a) if the offence described in paragraph 1 exhibits the features of commercial or other business activity;*

*b) if by such an offence he/she has obtained substantial benefit for himself/herself or another or has inflicted substantial damage on another; or*

*c) if he/she has committed the offence on a substantial scale.*

*(3) The perpetrator shall be punished by imprisonment ranging from three to eight years,*

*a) if by such an offence he/she has obtained large-scale benefit for himself/herself or another or has inflicted large scale damage on another; or*

*b) if he/she has committed the offence described in paragraph 1 on a large scale.*

§ 271 Forgery and imitation of a work of art

(1) Whoever shall forge a copyright-protected art work or imitate the artistic expression of another author with the intention of passing the new work for an original work by such an author shall be punished by up to three years of imprisonment, by disqualification or forfeiture.

(2) The perpetrator shall be punished by imprisonment ranging from one to six years,

a) if he/she has committed the offence described in paragraph 1 as a member of an organised group;

b) if by such an offence he/she has obtained substantial benefit for himself/herself or another, or

c) if he/she has committed the offence on a substantial scale.

(3) The perpetrator shall be punished by imprisonment ranging from three to ten years,

(a) if by such an offence he/she has obtained large-scale benefit for himself/herself or another; or

c) if he/she has committed the offence on a large scale.

## V. Other

### 1. TPM/DRM

They are provided for in Art. 43 and 44 of the Copyright Act, although Czech translation of the Act uses expression „effective technical measures.“ Pursuant to the definition in Art. 43 (3) it means *any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works, which are not authorised by the author, if the author can control the use of a protected work through application of an access control or protection process, such as encryption, scrambling or other transformation of the work, or a copy control mechanism.*

#### Article 43

(1) Copyright is infringed by anybody who circumvents effective technical measures that are in place to protect rights under this Act.

(2) Copyright is also infringed by anybody who manufactures, imports, receives, distributes, sells, rents, advertises for sale or rental, or possess for commercial purposes any devices, products or components, or provides services, that:

a) are promoted, advertised or marketed for the purpose of circumvention of effective technical measures;

b) have only a limited commercially significant purpose or use other than the circumvention of the effective technical measures; or

c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of the effective technical measures.

(3) For the purposes of this Act, the expression effective technical measures means *any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works, which are not authorised by the author, if the author can control the use of a protected work through application of an access control or*

protection process, such as encryption, scrambling or other transformation of the work, or a copy control mechanism.

(4) Legal protection under Paragraph (1) above shall be without prejudice to the provisions of Article 30a, Article 31 (1) (b), Article 34 (a), Article 37 (1) (a) and (b), Article 38, Article 38a (2) and Article 38e, to the extent necessary to benefit from the exception. An author who used technical measures under Paragraph (3) in respect of his work shall make his work available to lawful users to the extent necessary to fulfil the purpose of the stated exploitation of the work. The author may make available his work, for which he used the technical measures referred to in Paragraph (3), even in the case that a reproduction of his work for private use has already been made under Article 30; this shall not prevent the author from adopting adequate measures regarding the number of such reproductions.

(5) Provisions of Article 4 shall not apply to works made available by the author or with his consent in the way specified in Article 18 (2).

(6) The technical measures designed to fulfil the obligations under Paragraph (4), taken by the author voluntarily or on a contractual basis, shall enjoy the protection provided for in Paragraphs (1) to (3).

#### Article 44

(1) Copyright is also infringed by anybody who without the author's consent induces, enables, facilitates or conceals the infringement of copyright by:

- a) Removing or altering any electronic rights-management information; or
- b) Distributing, importing or receiving for distribution purposes, broadcasting or communicating to the public in the way referred to in Article 18 (2) a work whose electronic rights-management information was without authority removed or altered.

(2) The rights-management information, as referred to in Paragraph (1), is any information provided by the author to identify the work, the author or any other rightholder, or information concerning the ways and conditions of using the work, and any numbers or codes that represent such information. The same applies to the information which is associated with a reproduction of the work or appears in connection with the communication of the work to the public.

## **2. Licensing Schemes**

## **3. Optical Discs**

## **4. Hotlines**

Czech anti-piracy union hotline +420 222 328 762

## **5. Relevant contacts & links**

### Copyright Department of the Ministry of Culture

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### Ministry of Industry and Trade

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### Czech Trade Inspectorate

contact person: Eva Nebeska

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General Directorate of Customs  
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Czech Anti-piracy Union  
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