



UNIVERZITA  
KOMENSKÉHO  
V BRATISLAVE

# **Internal Regulations of Comenius University Bratislava**

Internal Regulation No. 33/2023

Directive of the Rector  
of Comenius University Bratislava

**on the exercise of copyright and related rights  
at Comenius University Bratislava**

**2023 Edition**

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Annex No. 1: Notification by the author of the creation of a commercial employee work

Pursuant to Art. 65 (2) of Internal Regulation No. 5/2023 Statute of the CU, the Rector of Comenius University Bratislava (hereinafter referred to as "CU") has issued the following directive:

## **PART ONE GENERAL PROVISIONS**

### **Art. 1 Introductory provisions**

- (1) This Directive is issued in accordance with the following legislation:
  - a) Act No. 185/2015 Coll., the Copyright Act, as amended (hereinafter referred to as "the Copyright Act"),
  - b) Act No. 131/2002 Coll. on Higher Education and on Amendments and Additions to Certain Acts, as amended (hereinafter referred to as "the Higher Education Act").
  - c) Communication from the European Commission: Framework for State Aid for Research, Development and Innovation (2014/C 198/01), andgoverns the rights and obligations of the CU, the CU employees and employees of the CU units in connection with the exercise of copyright in copyright works and rights related to copyright in other intellectual property subjects protected by the Copyright Act (i.e. artistic performances, sound recordings, audio-visual recordings, broadcasts and databases protected by a special right), which have arisen for the fulfilment of the obligations arising for these employees from the employment relationship with the CU or the CU units.
- (2) The Directive is binding on all employees of the CU, the employees of the CU units and, accordingly, on the CU students who are obliged to familiarize themselves with its contents and to comply with its provisions.
- (3) This Directive does not regulate the rights and obligations of the CU employees, the employees of the CU units and the CU students, which are regulated by the Directive on the protection and management of industrial property rights at the CU.<sup>1</sup>
- (4) The ethical and legal aspects related to the ethics of publishing and the handling of plagiarism cases are not the subject of this Directive.

### **Art. 2 Definitions of terms**

For the purposes of this Directive:

- (1) Audiovisual recording means a recording of an audiovisual work recorded as a sequence of intentionally arranged and interrelated images giving the impression of movement and accompanied or unaccompanied by sound; an audiovisual recording also means a recording of images accompanied or unaccompanied by sound,

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<sup>1</sup> Internal Regulation No. 5/2022 Directive of the Rector of CU on the protection and management of industrial property rights at the CU.

irrespective of the manner in which and the medium on which those sounds and images are recorded.

- (2) A copyright work is the unique result of the creative mental activity of a natural person (the author), which is in the field of literature, art or science and which is perceptible to the senses, regardless of its form, content, quality, purpose, form of its expression or degree of its completion.
- (3) The Centre for Technology Transfer CU (hereinafter referred to as "CTT CU") is an organizational component of the CU Scientific Park (hereinafter referred to as "CU SP"), which, pursuant to Article 3(4) of the Organizational Regulations of Comenius University Bratislava, Scientific Park (hereinafter referred to as "CU SP Organizational Regulations"), as amended, carries out the protection and management of the intellectual property of the CU. According to Article 4(1) of the Organizational Regulations of the SP CU, CTT CU performs university-wide tasks within the framework of technology transfer.
- (4) Database means a collection of mutually independent works, data or other mutually independent materials systematically or methodically arranged and individually accessible by electronic or other means, irrespective of the form of its expression.
- (5) A copyright-protected database is a database as referred to in paragraph 4 if the manner of selection or arrangement of the contents of the database is the result of the creative intellectual activity of a natural person (the author), in particular a compendium, newspaper, journal, magazine, encyclopaedia, anthology, programme or exhibition.
- (6) A database protected by a specific right is a database as referred to in paragraph 4 if it has a qualitatively or quantitatively substantial contribution to the acquisition, verification or demonstration of its content.
- (7) Computer programme means a set of commands and instructions expressed in any form used directly or indirectly in a computer or similar technical device, if it is the result of the creative intellectual activity of a natural person (the author). Commands and instructions can be written or expressed in source or machine code. The computer programme also includes the source material used to create it.
- (8) Co-authored work means a single work created by two or more authors through creative intellectual activity in such a way that it is not possible to distinguish the creative contributions of the individual authors and to use them as separate works.
- (9) For the purposes of this Directive, a CU student is understood to be a student of a first-degree (bachelor's degree programme), second-degree (master's degree programme), third-degree (doctoral degree programme) and a study programme combining the first degree and the second degree.
- (10) Artistic performance means the performance, recitation or other creative performance of a work of art or a work of traditional folk culture by a natural person (performer), whether by singing, acting, recitation, dancing or other means.

- (11) Broadcasting means the dissemination of an original coded or uncoded programme service intended for reception by the public by means of a communications network or telecommunications facility.
- (12) For the purposes of this Directive, a CU employee means a person who has an employment relationship with the CU or the CU units, including employment relationships based on agreements for work performed outside the employment relationship.
- (13) Sound recording means a recording of sounds perceptible to the ear, irrespective of the manner in which and the medium on which those sounds are recorded.

**PART TWO**  
**EXERCISE OF COPYRIGHT AND RIGHTS RELATES TO**  
**COPYRIGHT**

**Art. 3**

**General regime for the exercise of copyright in an employee work**

- (1) An employee work is understood to be a copyright work created by a CU employee to fulfil his or her duties arising from his or her employment relationship with the CU, in particular teaching texts, articles, books, collections, encyclopaedias and other publications, final reports, applications for approval of projects and other verbal works, presentations, photographic works, cartographic works, computer programmes, architectural works, musical works, works of applied art, works of visual art, audiovisual works or other types of artistic or scientific works, provided that they meet the requirements for copyright protection under the Copyright Act.
- (2) The regime under this Article shall apply to all employee works except those covered by the special regime provided for in Article 4.
- (3) If there are or should be expenses on the CU's side associated with the creation of the employee work, in particular if the CU is to publish the work in printed form or otherwise finance its creation, production or use, the CU employee is obliged to inform the CU without delay through the dean of the faculty of the CU at which the employee is employed or through the head of another part of the CU (in particular a specialised research and development workplace) at which the employee is employed; the dean or the head who has been informed in accordance with the provisions of this paragraph, shall decide the next steps to be taken.
- (4) The proprietary rights in the employee work shall be exercised by the CU in its own name and on its own account. The proprietary rights mean the right to use one's own work and the right to consent to the use of one's own work. The use of a work includes, in particular, the making of a reproduction of the work, the public dissemination of the work by transfer of ownership, loan and rental, the processing of the work, the combination of the work with another work, the inclusion of the work in a copyright-protected database and the presentation of the work to the public by means of a public display of the work, a public performance of the work and a public transmission of the work.

- (5) With the consent of his or her immediate supervisor, a CU employee is authorized to use the employee work free of charge, including granting permission for use by third parties, including by way of a public licence, unless this is contrary to the legitimate interests of the CU (e.g. if the use of the work by the employee could cause damage to the CU). In the event of reasonable doubt as to whether there is or may be a conflict with the legitimate interests of the CU in a particular case, the CU employee is obliged to seek binding guidance from the head of his or her department.
- (6) A CU employee has the right to be identified as the author and to decide on the manner of such identification in his or her name for each use of his or her employee work, if such identification is possible and customary for the work and the manner of use in question. The CU as an employer has the right to identify the work with its name for each use of the employee work; the CU employee is therefore obliged to ensure that the name of the CU (e.g. in the form of the CU employee's affiliation) is indicated for each use of the employee work, even if the employment relationship between the CU and the CU employee has ceased in the meantime.
- (7) If an employee work has been created as a co-authored work by the creative intellectual activity of two or more employees of the CU, the obligation to notify the CU of the creation of such a work pursuant to paragraph 3 shall apply to them jointly and severally (it shall be sufficient for only one of the co-authors to notify the CU of the creation of the employee work). The regime for the exercise and use of copyright pursuant to paragraphs 4 to 6 shall apply mutatis mutandis.
- (8) If an employee work has been created as a co-authored work by the creative intellectual activity of one or more CU employees and one or more authors who are not the CU employees, the obligation to notify the CU of the creation of such a work pursuant to paragraph 3 shall apply to the CU employees jointly and severally. The regime for the exercise and use of copyright pursuant to paragraphs 4 to 6 shall apply mutatis mutandis to a CU employee's creative contribution.

#### **Art. 4**

#### **Special regime for the exercise of copyright in an employee work as an subject of commercialisation**

- (1) Computer programmes, architectural designs, analyses, expert opinions and other copyright works which may be the subject of commercialisation with substantial economic benefit to the CU (hereinafter referred to as "the commercial employee works") shall not be subject to the regime under Article 3.
- (2) The proprietary rights of a CU employee in a commercial employee work are exercised by the CU in its own name and on its own account within the meaning of Section 90 of the Copyright Act. In exercising a CU employee's proprietary rights in a CU commercial employee work, the CU employee must not grant a third party permission to use the work and the CU employee must refrain from exercising proprietary rights in the work himself or herself. The CU employee is also deemed to have consented to the publication of the work, to the identification of the work with

the name of the CU, and to the completion of the work, alteration of the work, or other interference with the work.

- (3) A CU employee who has created a commercial employee work is obliged to immediately inform the CU of this fact in writing and at the same time to submit to the CU all source materials related to the creation of the work, through the CTT CU.
- (4) For the purpose of fulfilling its obligations under this Directive, CTT CU ensures and performs in particular the following activities:
  - a) receives notifications of the creation of a commercial employee work and supervises the fulfilment of the CU employees' obligation to submit such notifications,
  - b) manages the agenda for the exploitation of commercial employee works,
  - c) inform the CU employees about the commercial exploitation of their employee works, if such information is appropriate,
  - d) requires cooperation from the CU employees who have created a commercial employee work,
  - e) coordinates activities related to the creation and use of commercial copyright works, in particular the conclusion of contracts,
  - f) seeks out and negotiates with potential partners for the commercial exploitation of commercial copyright works,
  - g) archives documents relating to commercial copyright works.

This paragraph is without prejudice to the competences of other organizational units and the CU employees.

- (5) The regulation under this Article shall also apply mutatis mutandis to project implementation source materials, final project reports and other project documents of the CU.
- (6) In case of doubt as to whether an employee work is covered by the regime under this Article or by the regime under Article 3, the employee work shall be deemed to be a commercial employee work.
- (7) The CU, through the CU CTT, may determine on a case-by-case basis that a commercial employee work is covered by the general copyright enforcement regime under Article 3.

## **Art. 5**

### **Regime for the exercise of a performer's rights in an employee artistic performance**

- (1) The provisions on the exercise of copyright under Article 3(1) to (6) shall apply mutatis mutandis to an employee artistic performance.
- (2) The provisions on the exercise of copyright under Article 4 shall apply mutatis mutandis to an artistic performance which may be the subject of commercialisation with a substantial economic benefit to the CU (a commercial artistic performance).

## **Art. 6**

### **Regime for the exercise of other rights related to copyright**

- (1) The provisions on the exercise of copyright under Articles 3 and 4 shall not apply to sound recordings, audiovisual recordings, broadcasts and databases protected by a special right made by a CU employee to fulfil his or her obligations arising from his or her employment relationship with the CU or a CU unit.
- (2) If a CU employee has made a sound recording or an audiovisual recording in order to fulfil his or her obligations arising from his or her employment relationship with the CU or a CU unit, the rights to such recording shall be exercised by the CU as the person who initiated and/or arranged for the final production of the recording.
- (3) If a CU employee participates in the implementation of a broadcast, thereby fulfilling the obligations arising from his or her employment relationship with the CU or a CU unit, the rights to such a broadcast shall be exercised by the CU as the person who is editorially responsible for the content of the programme service and the timing of the individual components of the service which it broadcasts or causes to be transmitted in complete and unaltered form by a third party.
- (4) If a CU employee has created a database protected by a special right in order to fulfil his or her obligations arising from the employment relationship with the CU or a CU unit, the rights to such database shall be exercised by the CU as the person who initiated and arranged for the creation of the database.
- (5) Pursuant to the provisions of the Copyright Act, a CU employee does not exercise any rights to the objects regulated in paragraphs 2 to 5.

## **Art. 7**

### **Regime for the Exercise of Copyright in a Work Created by a CU Student**

- (1) A scholarly work is a copyright work created by a CU student to fulfill his or her study duties arising from his or her legal relationship with the CU.
- (2) A scholarly work which is a final thesis within the meaning of the Higher Education Act is not covered by this Directive. The use of a scholarly work pursuant to this paragraph of the Directive is governed by the Rector's Directive on the basic requirements of final theses, rigorous theses and habilitation theses, control of their originality, storage and accessibility to them at the CU.
- (3) A CU student is obliged to enter into a non-exclusive and royalty-free licence agreement with the CU, at the CU's suggestion, for the use of the scholarly work in a way that is neither directly nor indirectly commercial, if the CU student can reasonably be required to do so. If a CU student refuses to enter into a licence agreement pursuant to the preceding sentence, the CU may request that the content of the licence agreement be determined by a court of law.
- (4) A CU employee who has commissioned a CU student to create a scholarly work shall request the dean of the relevant CU faculty to submit a draft licence agreement



pursuant to paragraph 3. The licensing agreement pursuant to paragraph 3 shall be concluded with the CU student on behalf of the CU by the dean of the faculty the student of which has created the scholarly work.

- (5) Paragraphs 1 to 4 shall also apply mutatis mutandis where the work is a work of joint authorship or the combined works of two or more authors.
- (6) Paragraphs 1 to 4 shall also apply mutatis mutandis in the case of an artistic performance, sound recording or audiovisual recording created or produced by a student of CU.
- (7) If a CU student refuses to enter into a licence agreement with the CU pursuant to paragraph 3, the dean of the faculty whose student has created the scholarly work may request the opinion of the person who commissioned the CU student to create the scholarly work for the purpose of assessing whether to seek a judicial determination of the content of the licence agreement in the case in question. In the event of litigation, the dean is authorized to use the services of a law firm.<sup>2</sup>

#### **Art. 8**

##### **General principles for the use of copyright works and other subject of protection**

- (1) The CU consistently ensures compliance with copyright, copyright-related rights and other intellectual property rights and requires such compliance by the CU employees, the CU students and third parties with whom it is in a contractual relationship.
- (2) The CU prefers to use copyright works and other subjects of protection distributed under a public licence when using third-party copyright works and other subjects of protection. When using copyright works and other subjects of protection to which it exercises rights itself, the CU may distribute such subjects under a public licence.

### **PART THREE COMMON AND FINAL PROVISIONS**

#### **Art. 9**

- (1) Any matters not regulated in this Directive shall be governed by the Copyright Act and other generally binding legislation.
- (2) The following Annexes form an integral part of this Directive:  
Annex No. 1: Notification by the author of the creation of a commercial employee work
- (3) This Directive shall enter into force and take effect on the date of its signature.

In Bratislava, on 9 October 2023

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<sup>2</sup> Order of the Rector No. 14/2021 Procedure for resolving contentious and non-contentious legal agendas at the CU

Prof. JUDr. Marek Števček, DrSc.  
Rector of Comenius University