National Czech Programme | eosc

Copyrights and licences

D. Stará (Charles University Central Library) and the NRP project team
(version 1.0)

This document provides basic information on copyrights and licences and is divided into four sections. The first section explains the important **copyright terms**. The second section focuses on the **legal protection of research data**. The third section explains in more detail the issue of **licensing content** as a part of repositories (a repository licence, a user licence) and introduces standard Creative Commons licences. The fourth section provides answers to **frequently asked questions**. This document is intended for those interested in setting up a repository and for any participating persons (developers, methodologists, supervisors, managers, etc.).

Should you have any questions that are not answered in this document, please feel free to contact us at legal@eosc.cz.

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Ministry of Education, Youth and Sports of the Czech Republic

National Repository Platform for Research Data (NRP)
CESNET, zájmové sdružení právnických osob
Mailing Address: Gen. Piky 430/26, 160 00 Prague
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Important copyright terms

Author	An author is a **person who creates a copyrighted work** (e.g. in the case of an article, the person who wrote it; in the case of a photograph, the person who took the picture, i.e. who pressed the shutter button). This is the person who owns the copyright to the work. The author can only be a person (a private individual), not a company or artificial intelligence.
Co-authorship	If **two or more authors** contribute to the creation of a work, this is referred to as co-authorship. In such cases, the copyright is owned equally by all co-authors, and the co-authors decide jointly on the use of the work. A co-author is not someone who provided the incentive for creating the work (the commissioning party), nor someone who merely contributed by providing assistance, technical or expert advice, or who supplied documentary or technical material (thus co-authors do not include, for example, expert advisers or consultants to the author of an article who are not otherwise involved in the creative production of the article). The copyright is held only by those who have actually contributed to the creation of the work as such. (Additional information on co-authorship is available in the FAQ section of this document).
Copyright	**The author's rights to their copyrighted work**. Czech law does not permit these rights to be waived or transferred. They are divided into: - Moral rights - Economic rights
Moral rights	These include, in particular, **the right to be named as the author, the right to decide on the publication of the work,** and **the right to the integrity of the work**, i.e. to protect the work against alterations to which the author has not consented and against any treatment of the work that diminishes its value. These rights arise upon the creation of the work and cease to exist upon the author's death.
Economic rights	These are rights that enable the author to **derive economic value from their work** and generate profit. They include, in particular, **the right to use the work** by reproducing it (making copies), distributing the original or copies (putting the work into circulation), renting it out, or communicating it to the public (e.g. by making it available on the Internet), etc. These rights last for the author's lifetime and for 70 years after their death (or after the death of the last of the co-authors). Under Czech law, these rights cannot be transferred. However, a licence may be granted for using these rights.

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Copyrighted work

This refers to **a work that is the unique result of an author's creative activity**, i.e. the result of an author's own intellectual effort (referred to as "original" under EU law) – a counterfeit or a copy, for example, would not be protected. Computer programs and databases are also protected as copyrighted works provided they are the result of the author's creative activity. A copyright is not only for completed works but also any individual stages of development and parts, including titles or other elements (provided they are the result of an author's creative activity) – thus, a draft article, its parts, and the individual versions of a code or data sets may all be protected as copyrighted works.

On the other hand, a work's subject matter or an idea *does not constitute* a copyrighted work – the copyright protects only the expression of an idea or subject matter (a text document, an annotation, a graphic representation). Moreover, a copyrighted work does not include, for example, principles, a method or scientific theory, a mathematical or similar formula, or a statistical chart.

Collective work

This refers to **a collection of independent works, the selection or configuration of which is, in itself, the result of the creative activity of the author** of the collective work – it is the configuration or design itself, resulting from the author's selection, that is protected by acopyright. In addition to the rights of the author of the collective work, the copyrights of the authors of the works included in the collective work are preserved; these authors must consent to the inclusion of their works in the collection. Examples of collective works include conference proceedings, journals, encyclopaedias, anthologies, exhibitions, or databases. A collective work is also frequently designated as a copyrighted database, i.e. an original configuration of components. Such a database is protected as a copyrighted work in terms of its configuration, in contrast to the "special right" of a database creator (see the second section of this document for more information on the protection of databases).

Database

This refers to a **collection of independent works, data, or other components** that are **organized systematically or methodically** and are **individually accessible**. Databases may be in electronic or physical (analogue) form – for example, a collection of minerals or a herbarium may also be considered databases. Provided the conceptual criteria are met, a repository may also be considered a database. (see below). If a database is original (i.e. the result of creative activity), it may be protected as a (collective) work. However, not every database meets this criterion. If the creation of the database, verification of the accuracy of the information, and the updating and maintenance of the database involve a substantial investment (whether in terms of finances, time, or personnel), the person who created the database through their investment is entitled to a **special right as a database creator**. The database creator does not automatically have the right to use the database's content or to grant this right to another party, since the individual components in a database may be subject to their own

	protection, for example as independent copyrighted works. (see the second section of the document for more information on the protection of databases).
Employee work	This refers to **a work created by an employee while fulfilling their duties arising from employment or a** civil service **relationship**. Examples of such works include a presentation prepared for a training session, a graphic visualization created as a part of a project, or an article written by an academic staff member – provided that the creation of these works is a part of the person's duties as an employee. On the other hand, if, for example, an academic staff member writes an article that is in no way related to their work (in a field other than that in which they are employed and created without using the employer's resources or facilities) or paints a picture, even during working hours, this does not constitute an employee work. The economic rights to an employee work are exercised by the author's employer on its own behalf – this means that the employer decides on the use and licensing of the work, while the author retains only what is known as "bare authorship". The author's moral rights are preserved. However, the law presumes that the author consents to the publication of the work, its adaptation, and its presentation to the public under the employer's name. Since this legal presumption can be rebutted, it is recommended that the author's consent (in particular to the publication and use of a work under the employer's name) be expressly set out by the employer, for example, in the employment contract.
School work	**A work created by a student or pupil to meet school or educational requirements**. The relevant school or educational institution may use this work for teaching purposes or for its own internal use (not for commercial purposes).
Licence	The author of a work may grant **authorization to exercise their economic rights**, typically by means of a licensing agreement. A licensing agreement is required to be in writing only if an exclusive licence is granted.
Exclusive licence	If an author grants an exclusive licence to exercise economic rights, **they may no longer grant a licence to exercise the same rights to other persons**. An exclusive licence does not preclude the author's own use. However, if **strict licensee exclusivity** is stipulated in the exclusive licence, then only the licensee may use the work, and all others, including the author, are prohibited from using the work.

Non-exclusive licence	If an author grants a non-exclusive licence to exercise economic rights, **they may also grant licences to exercise the same rights to other persons**. If an author grants a licence without specifying whether it is an exclusive or non-exclusive licence, it is deemed that a non-exclusive licence has been granted.
Copyright exceptions	The Copyright Act provides for a number of exceptions where **an author's consent is not required for the use of a work**. Examples include the non-commercial use of a work for personal purposes (fair use), the making of copies of works for personal use or for the internal use of a legal entity or business, citations, or licences to reproduce a work for the automated analysis of text or data (text and data mining).
Work in the public domain	A copyrighted work for which **the copyright protection (economic rights) has expired** – i.e. 70 years after the author's death. Anyone may freely use such a work without obtaining permission. However, no one may claim authorship of the work. The author must be credited, and the work must not be used in a manner that diminishes its value.
Public domain	The term "public domain" is a general designation for **all works that are free in the sense that they may be used without obtaining permission** – in addition to works for which the copyright protection has expired, this also includes "abandoned works", i.e. works where the author has waived their copyright and thus "placed" the work in the public domain (this is not possible under Czech law, since a copyright cannot be waived).
Orphan work	We refer to a work as "orphaned" if its **author is unknown**, cannot be identified, or is known but cannot be traced. Since it is not possible to obtain permission, it is not possible to use an orphan work.
Public licence	This is a **standardized licensing agreement** with a licensor and an unlimited and indefinite group of persons **that can be applied simply by including a link to the license's full text**. The agreement is concluded when the user begins to act in accordance with the terms of the licence without the licensor being expressly notified of this. Since these are widely used standardized licences, they may even be used without a detailed understanding of the full text version. The best-known and most widely used public licences are standardized Creative Commons (CC) licences. There are also many standardized software licences (this topic is discussed in more detail in the third section of this document).

Protection of research data

Definition of research data

The legal definition of research data is currently set out in Act no. 130/2002 Sb., on the support of research and development from public funds, in accordance with which research data are "*information, with the exception of research publications, in electronic form, which is collected or generated in the course of research or development and is used as evidence in the research or development process, or which is generally accepted by the research community as necessary for validation of the findings and results of research or development.*" This is a relatively narrow definition. In addition, the cited act will be repealed on 1 January 2027 and replaced by Act no. 328/2025 Sb., on Research, Development, Innovation and Knowledge Transfer. Instead of the term "research data", this new act uses the phrase "data from research", which is defined in the current wording as "*documents in electronic form, with the exception of research publications, which are collected or created in the course of scientific research activities and are used as evidence in the research process, or which are accepted by the research community as necessary for the validation of research findings and results*".

The Czech translation of Open Data Directive also uses the term "data from research"[1] ("údaje z výzkumu"), which in recital 27, defines data from research as including "statistics, results of experiments, measurements, observations resulting from fieldwork, survey results, interview recordings and images. It also includes metadata, specifications and other digital objects".

In general terms, research data is understood in a broader sense – it refers to any information that has been collected and generated as part of research and may take either a digital or non-digital form (we also refer to physical samples, for example, as research data).

Legal protection of research data

Given the diverse nature of data, there is no uniform system of legal protection. Depending on the nature of the specific research data, different regimes of legal protection apply. For some data, more than one protection regime may apply simultaneously. On the other hand, there may be situations where research data is not entitled to any form of legal protection and is thus not protected at all – for example, values obtained from measurements by meteorological instruments which do not constitute a database. In such cases, the data is referred to as "raw data".

Research data may be subject to one of the following legal regimes:

Copyright	Some data may constitute copyrighted works if they are the result of the author's creative activity (for example, photographs). A computer program is also protected as a copyrighted work, and a dataset or database may also fulfil the criteria for a copyrighted work (see below regarding the protection of databases).

[1] Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information

Protection of databases

There are two types of legal protection for databases – provided certain conditions are met, a database may be protected by a copyright or under the sui generis database right of a database creator.

Copyright protection of databases | If the method of selecting the individual components or their configuration is original, it constitutes a collective work, the configuration of which will be protected by a copyright. The configuration is considered original if it is the result of the database creator's decision-making and does not arise solely "from the logic of the subject matter". It is not the individual components of the database that are protected, but its structure (thus, the copyright is not infringed by using the information contained in the database, but, for example, by copying the structure of the database).

Databse right | If the individual components of a dataset are organized in a systematic or methodical manner and these components are individually accessible (by electronic or other means), that dataset constitutes a database. It is not decisive what components make up the database, or whether they are legally protected or not (in the case of, for example, raw data). It is sufficient for this data to have at least minimal informational value.

Where the creation of a database or verification of the accuracy of the information and updating and maintenance of the database involves a substantial investment – whether in terms of financing, personnel, or time – a special right of the database creator arises in relation to that database. The creator is the person on whose initiative and at whose expense the database is created. The database right comprises the right to extract (copy the content) and exploit (re-use the content) the entire database or a substantial part thereof. Unlike copyright protection of a database, this right is linked to its content.

Personal data

If a dataset contains personal data (i.e. any information that enables the identification of a specific individual, such as a name, address or national identity number, or sensitive data, such as information about health or biometric data), such data are subject to protection under the GDPR[2] and in accordance with the Act on the Processing of Personal Data[3].

Trade secrets

Some data may constitute competitively significant information with commercial value. Businesses have an interest in protecting this know-how, and the law provides them with the appropriate tools to do so. A breach of a trade secret constitutes an act of unfair competition, on the basis of which the aggrieved party may claim damages.

[2] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

[3] Act no. 110/2019 Sb., on the processing of personal data

Classified information	This refers to information that has been classified in accordance with the Act on the Protection of Classified Information[4] and whose disclosure or misuse may harm the interests of the Czech Republic or may be detrimental to those interests.
Contractual protection	The protection of research data may stem from contractual arrangements, such as the signing of a non-disclosure agreement (NDA).

The various regimes are not mutually exclusive – for example, certain data may be protected by a copyright as part of the special rights of a database creator and, at the same time, as personal data.

Data ownership

Research data cannot be the subject of a proprietary right – data cannot be owned. A researcher may have *de facto* control over "their" data – for example, by storing them in a secure repository to which others do not have access – but loses this *de facto* control the moment the data are published. Nevertheless, a researcher has no legal title to "their" research data, and if they move between institutions, they cannot appropriate the research data and simply "take the data with them". These rights are generally exercised by the specific institution.

Data licensing

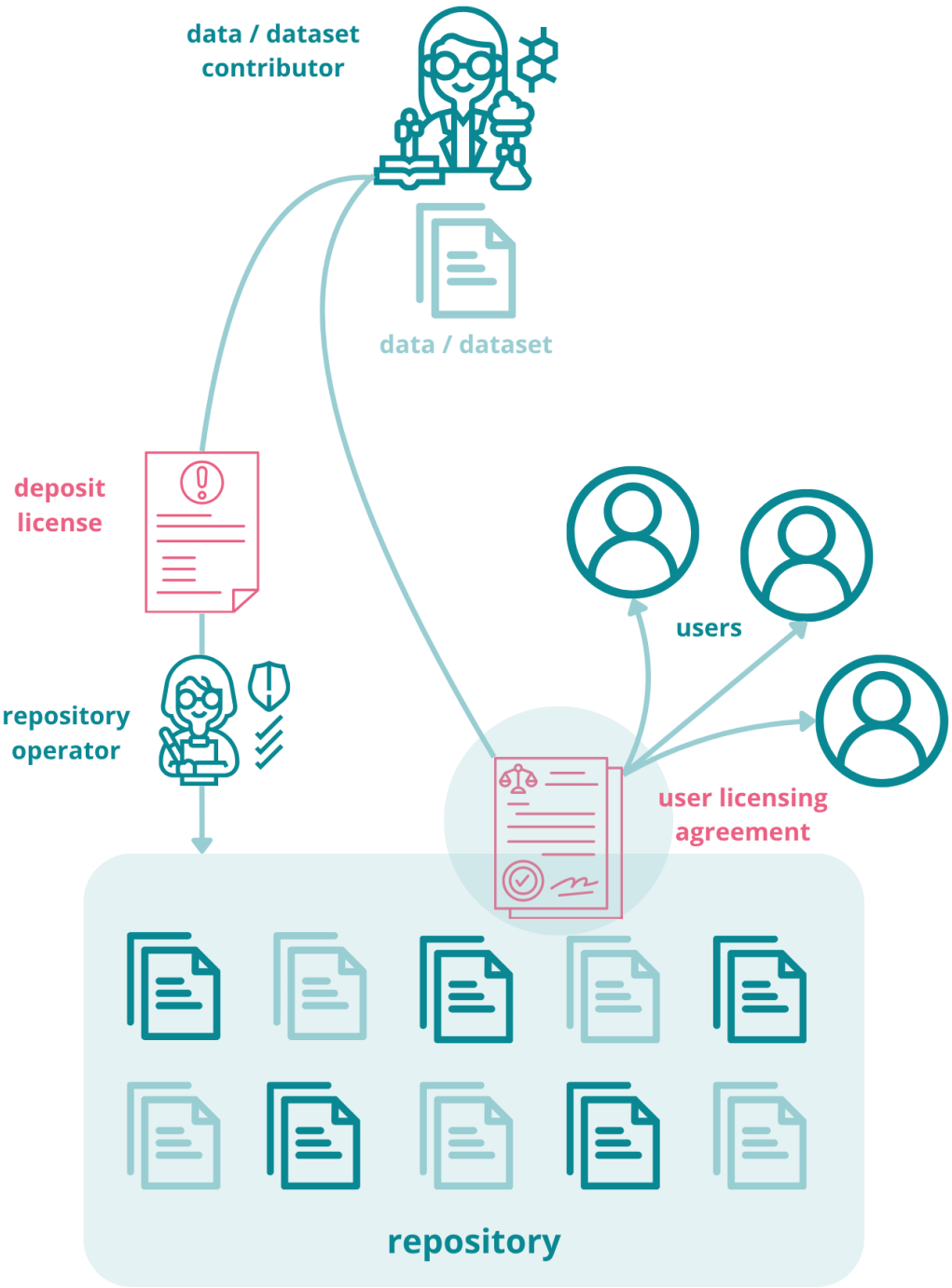
The inconsistency of the legal protection regime for research data is reflected, among other things, in the possibilities for licensing such data. The granting of licences – that is, the authorization to exercise selected rights – is, in principle, only possible in the case of copyrights and databases. Thus, as a rule, a licence can only be granted for data and datasets that meet the criteria of a copyrighted work or a database, as described above. However, no such distinction is made when it comes to repositories. Public licences are a suitable tool, since they allow a dataset to be used by an unspecified number of users under clearly defined conditions, such as standardized Creative Commons licences .

From a licensing standpoint, datasets that meet the criteria of a database constitute a special case. The distinctive feature of database rights lies, among other things, in the fact that, while a copyright is non-transferable and cannot be waived under Czech law, the opposite is true of the rights of a database creator. The database right may be waived and transferred. Thus, a standard CC0 licence may be used for the licensing of a database, under which the database creator waives their exclusive right to the database and allows anyone to use the database licensed in this way without restriction. However, if this licence were to be used to licence a copyright, which cannot be waived, it is interpreted as a licence without any restrictions on use.

[4] Act no. 412/2005 Sb., on the protection of classified information and on security clearance

Licences in the context of repositories

The operation of repositories is largely based on the licensing of the data stored there. The repository operator must be authorized to store and make the data available, and users must be authorized to make further use of that data. Hence, there is a two-stage licensing process. The contributor agrees to the repository operator's licensing terms, on the basis of which they grant the operator a licence to use the submitted content (deposit license), and also specifies the licence under which the data in the repository is to be shared, i.e. how users may use the data (user licensing agreement).



Deposit license

When contributing content to a repository, the contributor must grant the repository operator permission to use that content, specifically to store it and, where applicable, make it available to the public. This is achieved through a deposit license. Template deposit license has been drawn up as part of the NRP, which anyone interested in a repository may use or draw inspiration from when creating their own repository licensing terms or when formulating licensing provisions for a repository's terms of use.

These terms govern the relationship between the contributor and the repository operator, authorizing the latter to use the data or dataset, to store it permanently in the repository, and to make it available to others. The contributor expresses their consent to these terms by uploading the dataset to the repository or, alternatively, by checking the consent box (which provides greater legal certainty). In any event, the contributor must be given the opportunity to familiarize themselves with the full text of these terms.

The contributor must be authorized to grant a licence to exercise the right to use the dataset. By agreeing to the terms of the repository, the contributor also declares that they are authorized to enter into this licence (they are the author of the content being contributed, the holder of the economic rights, or have the consent of all co-authors, have the consent of their employer, have not granted an exclusive licence to any other person, etc.) and that uploading the dataset to the repository does not infringe the rights of third parties.

User licensing agreement

In order for users to access the content stored in the repository, they must have the appropriate authorization. This is the purpose of user licences, the scope of which the repository operator should, where possible, define in advance and allow contributors to choose from the available user licences depending on how users should or should not be permitted to use the content. A suitable solution is to give the contributor a choice between standardized CC licences (see below for more information on these). In cases where it is not possible to define the range of licences in advance, *ad hoc* user licences can be used, which a contributor can upload themselves.

These licensing agreements are concluded between the contributor and the user, and, as a rule, the user then acts in accordance with the selected licence.

Public licence – *Creative Commons*[5]

A public licence is a licensing agreement that a licensor offers to an unspecified group of persons (within the meaning of Section 2373 of the Civil Code) – with the licensor as one party and an unlimited number of users as the other party or parties. The licensing agreement is concluded

[5] Part of the explanation in this chapter, including the icons used, has been taken from the Creative Commons website, specifically from https://creativecommons.org/cc-licenses/ and https://creativecommons.org/faq/#Can_I_combine_two_different_Creative_Commons_licensed_works.3F_Can_I_combine_a_Creative_Commons_licensed_work_with_another_non-CC_licensed_work.3F; licensed under CC BY 4.0 (the full text can be found here), edited

when the user starts acting in accordance with the terms of the licence (without notifying the licensor).

The most widely used are the standardized Creative Commons (CC) licences, which are used worldwide and allow a work to be used by the widest possible audience under pre-defined terms. They are suitable for virtually all types of copyrighted works, with the exception of software, for which there are specific standardized licences (see below).

CC licences are essentially irrevocable, so once an author has applied a CC licence to their work and made it available online, users may use the work in accordance with the terms of the licence. If the repository operator allows a contributor to change a licence that has already been selected, it is advisable to inform the contributor that this action does not revoke the previously applied licence, and the work will thus be licensed under multiple licences simultaneously. In addition, however, licensing a work under a CC licence does not prevent the contributor (who is authorized to grant licences) from granting additional non-exclusive licences under different terms.

> *Example: A contributor licenses their work under a restrictive CC BY-NC-ND 4.0 licence (i.e. the latest version of the licence, which does not permit the creation of derivative works or commercial use). However, they may also enter into a licensing agreement granting the other party the right to produce a translation of their work and to use it commercially.*

CC licences are created using a combination of these four licensing elements:

BY		Attribution – When using a licensed work, appropriate credit must be given (specifically, you must cite the title of the work, the author's name, the source, and the licence under which it was made available). This licensing element is present in every version of a CC licence.
SA		ShareAlike – If a licensed work is adapted and a new (derivative) work is created on the basis of it, that derivative work must be licensed under the same licence as the original work.
ND		NoDerivatives – This licensing element does not permit the creation of, or the merging of, the licensed work with other works, nor does it permit further processing of the work or the creation of new derivative works (e.g. translations, merging of datasets, format conversions, etc.).
NC		NonCommercial – A licensed work may not be used for commercial purposes.

When these licensing elements are combined, a total of six standard CC licences are created. These licences are described in more detail in the following section.

Standardized CC licences are available in versions that have been developed through continuous updates over the years (labelled 1.0 to 4.0). For older versions (1.0, 2.0 and 3.0), national adaptations can be selected, whereby the content of individual national versions differs

depending on the specifics of the legal systems. The latest version of the CC licence, namely version 4.0 from 2013, does not have any national adaptations – these are international versions of the licences, available in translations into various languages worldwide, but with identical content. We recommend always using the latest version of the CC licences, which is currently version 4.0.

Standardized CC licences

CC BY

Attribution

This is an open licence[6] that permits the use of a work in any manner, including its adaptation and use for commercial purposes. The only condition is that you must give appropriate credit, i.e. the title of the work, the name of the author, the source (i.e. where the work was made available), and the licence (under which the work was made available; in this case, the obligation to specify the relevant version of CC BY).

CC BY-SA

Attribution – ShareAlike

This is an open licence that permits the work to be used in a wide range of ways, including adaptation and use for commercial purposes. In addition to giving appropriate credit, the licence must be preserved – this means that if a derivative work is created based on the original work licensed under the relevant version of the CC BY-SA licence, this must also be distributed under the CC BY-SA licence under the same or a later version. The attribution requirement also applies to this licence.

Example: The original work was licensed under CC BY-SA 3.0. A user created a derivative work (a translation) based on the original work. This translation must therefore be licensed under CC BY-SA 3.0 or CC BY-SA 4.0, i.e. the newer version.

CC BY-ND

Attribution – NoDerivatives

This licence imposes restrictions on the right to use the work – it prohibits its adaptation. This means that no derivative works (whether translations, combinations, or other forms of adaptation) may be created based on a work covered by this licence. Apart from adaptation, however, a work covered by this licence may be used in any other manner, including for commercial purposes, provided that the source is acknowledged.

[6] We refer to the CC BY and CC BY-SA licences as "open licences" within the meaning of the Berlin Declaration on Open Access.

CC BY-NC

Attribution – NonCommercial

This licence permits the use of the work in all manners except for commercial use. This means that the user may use the work in any way, provided that they do not derive any commercial benefit from such use. The requirement to give appropriate credit also applies under this licence.

CC BY-NC-SA

Attribution – NonCommercial – ShareAlike

This licence permits the use of the work in any manner except for commercial use. The user may use the work in any way, provided that they do not derive any commercial benefit from such use, including adaptation. If the user adapts a work covered by this licence, they must apply the same licence to the resulting derivative work as that applied to the original work. The requirement to given appropriate credit also applies to this licence.

CC BY-NC-ND

Attribution – NonCommercial – NoDerivatives

This licence permits the work to be used only in its unaltered form and for non-commercial purposes. Thus, the user may not adapt the work in any way, nor use it in a manner from which they would derive commercial benefit. The requirement to give appropriate credit also applies under this licence.

CC0

Deed: No Copyright

An author who applies a CC0 licence to their content indicates that they are waiving all of their copyrights and related rights to the work to the extent permitted by law (a “waiver”). A work covered by this licence thus enters the public domain and becomes a free work.

Under Czech law, it is not possible to waive a copyright for a work. Hence, if a copyrighted work is licensed under CC0, the licence is interpreted as conferring the broadest possible rights, that is, as a licence without any restrictions on use.

CC0 is the only one of the standardized licences that does not have multiple versions; there is only CC0 1.0 Universal.

Compatibility of CC licences

When using and processing licensed content, it is essential to keep track of how the individual elements have been licensed and, when sharing them further, to use licences that are compatible with the original licences.

Multiple elements covered by different licences may be combined, but not entirely without restrictions, as some licences are not compatible. Elements covered by a licence containing the ND (No Derivatives) licensing element – that is, either the CC BY-ND or CC BY-NC-ND licences – do not permit further processing, including combining or merging with other elements (except for private use), and are thus not compatible with any licence.

The other standardized licences permit adaptation, including combining works with other works, but there are additional restrictions. If you combine several licensed elements in your work and one of them is licensed under the SA (ShareAlike) element, i.e. CC BY-SA or CC BY-NC-SA, which requires users to share the resulting content under the same licence, you may only combine elements with the same SA licence or under one of the compatible licences (which of the other licences are compatible depends on the specific version – see the Creative Commons website for further details). In addition, if you intend to use the resulting work commercially, you may not use elements licensed under the NC licence, which prohibits commercial use.

CC	BY	BY-SA	BY-NC	BY-ND	BY-NC-SA	BY-NC-ND	0
BY	✓	✓	✓	✗	✓	✗	✓
BY-SA	✓	✓	✗	✗	✗	✗	✓
BY-NC	✓	✗	✓	✗	✓	✗	✓
BY-ND	✗	✗	✗	✗	✗	✗	✗
BY-NC-SA	✓	✗	✓	✗	✓	✗	✓
BY-NC-ND	✗	✗	✗	✗	✗	✗	✗
0	✓	✓	✓	✗	✓	✗	✓

If you are creating new content by adapting elements that are already licensed, the resulting derivative work must be licensed in accordance with the original licence, or the licence applied to it should contain at least the same licensing terms as the licence of the original work (see the example below). In addition, if the elements being adapted were covered by an SA licence (ShareAlike), the work created through adaptation must also be licensed under the same licence or one of the compatible licences (see the Creative Commons website for more details).

Example: If an element that, when modified, results in a new work was originally licensed under a CC BY-NC licence, the licence selected for the resulting work must also include the NC licensing element, i.e. it must not permit commercial use.

Software licences

Standardized CC licences are an excellent tool for sharing various types of content, but they are not suitable for licensing software. This is because CC licences do not address the specific nature of source codes or patent issues. In particular, they are not compatible with software licences.

For software licensing, there are standardized licences known as Free and Open Source Software (FOSS) licences, the aim of which is to allow the free distribution of source code online. There is a wide range of licences to choose from, spanning the spectrum from permissive to copyleft licences. A list of these can be found, for example, on the website Open Source Initiative. While permissive licences allow any user to use and modify the software in any way they wish, without being required to share it further, copyleft licences are more restrictive and impose an obligation to publish any derivative works under the same licence. Copyleft licences are thus not suitable for commercial users, who would be forced to share their solutions with competitors.

One of the most widely used FOSS licences is the **GNU GPL** (General Public Licence, full version available here), which grants users the right to run, modify, and distribute the software for any purpose, in both source and machine code form. This is a copyleft licence, so when redistributing modified software covered by this licence, you must make the source code available and also license the distributed software under the GNU GPL. On the other hand, an example of a permissive FOSS licence is the **BSD** (Berkeley Software Distribution) licence, full version available here) and the **MIT** (Massachusetts Institute of Technology, full version available here), which allow code covered by these licences to be used in commercial projects as well, in principle, without any further restrictions. There are a large number of FOSS licences. A comparison of these licences is available, for example, on Wikipedia.

Just as with CC licences, a single large-scale project may involve several different FOSS licences. Hence, the individual elements used and the licences applied must be continuously mapped and recorded. When selecting a licence for the final software, it is essential to take these individual elements into account and to select licences that are compatible. This tool from the European Commission or the License Selector created as a part of the NRP can help with selecting the correct licence and verifying compatibility.

FAQ

Please find below frequently asked questions about copyrights relating to repositories.

How can the template deposit licence be applied in practice for repositories? Can we incorporate the provisions of the deposit licence into a repository's terms of use?

The template deposit licence (repository licensing terms) has been drawn up for repository operators who need to obtain licensing authorization from the content contributors to use their content. The full text may be adopted (supplementing the details for the repository operator and the repository) and used as licensing terms, or you can use the text to draft your own licensing agreements. A suitable way to utilize the template is to incorporate the proposed provisions into your own licensing terms and to make the acceptance of these terms a requirement for submitting data to the repository. This can be technically implemented using a check box for consent and a link to the full text of the licensing terms.

Licensing agreements may be part of a more comprehensive document (terms of use for the repository). However, if these terms were only available for viewing somewhere within the repository environment (even if clearly labelled as "terms of use" or "licensing terms"), in the event of a dispute, the repository operator would need to prove that the contributor had the opportunity to familiarize themselves with the terms. Hence, whether you use the licensing terms as a separate document or incorporate the licensing agreement into a more comprehensive document containing the terms of use for the repository, in the interests of legal certainty, you should always require active consent from contributors, for example, by means of a check box.

The template document was previously entitled "VZOR depoziční licenční smlouvy" ("TEMPLATE Deposit Licensing Agreement"). However, this caused confusion and raised questions regarding missing contractual requirements. The title of the document has therefore been changed, and comments explaining its content have been added.

Why does the template deposit licence lack the usual contractual requirements, such as fields for identifying the other party (the contributor) or signature lines?

The template deposit licence serve as a template for licensing terms for the creators and operators of repositories. When contributing content to repositories, the contributor must grant the operator a licence to use that content (to store it and make it available). The repository operator (the licensee) may achieve this, for example, by making the acceptance of the licensing terms a requirement for contributing content to the repository (the wording of the terms may be taken directly from the template deposit licence). The contributor (as the licensor) thus simply "checks off" the consent box (or otherwise indicates their willingness to grant the licence), thereby validly granting the licence.

The granting of a non-exclusive licence does not require written form. Thus, no written contracts are needed with contributors, nor was a contract envisaged when the template deposit licence was drawn up. Consequently, this template does not include the standard elements of a contract, such as a section for identifying both parties or signature lines. In the past, this document was called the "VZOR depoziční licenční smlouvy" ("TEMPLATE Deposit Licensing

Agreement"), but as this title caused confusion given the nature of the document, it has been changed. However, this is only a template document. Each repository operator may adapt it to their own needs or devise their own agreement or terms.

In the case of co-authorship, who is authorized to grant a deposit licence and to decide under which licence the content is contributed?

If the content uploaded to the repository is the work of several authors, it is considered a co-authored work, and the copyright belongs jointly and severally to all the co-authors. The template deposit licence duly reflects this legal provision. The template deposit licence includes a declaration by the contributor that they are authorized to grant the licence (with the contributor bearing responsibility for any false information in this declaration). See the wording of Article 2.2.1, first indent:

"You declare that you have all the necessary authorization to grant this licence and [...] that you have the consent of all co-authors [...]"

The contributor, and thus also the licensor under the deposit licensing agreement, will not necessarily always be the author or one of the co-authors, but rather the person authorized to grant the licence. That same person is authorized to select the user licence under which the content will be contributed to the repository. Before carrying out any operations on a dataset, a researcher should always ensure that the organization's internal rules permit this – the rights are usually exercised by the employer.

In the case of works created by employees, who is authorized to grant a deposit licence and to decide under which licence content is contributed?

A generally applicable answer is not possible for this question – it depends on the internal arrangements governing the exercise of the copyright at the specific institution.

Under the Copyright Act, the employer exercises the economic rights to works created by employees while carrying out their duties as employees. Through the employer's internal regulations (guidelines, measures issued by the rector, etc.), the employer may authorize a specific employee to exercise these rights.

When uploading content to the repository, the contributor declares that they are authorized to grant a licence for the use of the content (see clause 2.1 of the template deposit licence). Should a person who is not authorized to grant a licence upload a work created as an employee to the repository, that person is liable for any false information in their declaration.

How do I apply a CC licence to a work?

If a person authorized to grant a licence for a work selects one of the CC licences, it is sufficient to include information about the selected licence in a suitable, visible place within the work – for example, on the title page of the text, in the header or footer, on the opening slide of a presentation, etc., ideally in the form of an icon indicating the licence – and to include a link to the text of the licensing terms. In the case of datasets, information about the selected licence should be included in the README file and in the metadata.

The repository operator ensures that the contributor selects, as one of the mandatory elements, the licence under which the content is being contributed. Information on the selected licence must be clearly stated in the preview of the work or as part of the work's description, so that users of the repository can easily access this information.

Can metadata be licensed under a CC0 licence?

A CC0 (Creative Commons Zero) licence, under which the licensor waives all of their rights to the licensed content and places it in the public domain, is the most common licence for metadata, as most metadata is not protected by copyright. Under the Czech Copyright Act, it is not possible to waive a copyright. The same applies throughout the EU (unlike the special rights of a database creator, which can be waived). Nevertheless, a CC0 licence is recommended for metadata – it prevents so-called "attribution stacking" (i.e. the requirement to give appropriate credit whenever datasets, including metadata, are shared further) and establishes a uniform regime for the entire metadata set. If metadata covered by a CC0 licence were to contain copyrighted works, the licence would be interpreted, for the purposes of using such data, as conferring the broadest possible authorization, i.e. as a licence without any restrictions on use.

Generally speaking, the CC0 or CC BY licence is recommended for licensing metadata. It is advisable to include information about the selected licence as close to the data as possible, that is, where feasible, directly within the metadata, on the project page, or in the repository's terms of use or the "About" section.

Is a repository a database in its own right? Does the operator or creator of a repository acquire the specific rights of a database creator, or, where applicable, a copyright to the repository?

A database is a collection of independent works, data, or other elements which are organized in a systematic or methodical manner and are individually accessible by electronic or other means. A repository could fulfil this statutory definition of a database (Section 88 of the Copyright Act). The elements constituting a database may be protected in their own right, for example, as copyrighted works. In addition, a database may consist of several smaller databases – for example, a repository containing datasets which, in their own right, would fulfil the criteria of a database.

Hence, repositories could be regarded as databases, and if the creation (compilation), verification (checking for accuracy), or presentation of the contents of such a repository constitutes a substantial investment (financial, material, or in terms of personnel), the operator (creator) of the repository would thereby acquire the rights of a database creator. In practice, this

would mean that the creator has the exclusive right to use the whole or a substantial part of the database, including the right to license it to other persons. However, this right does not extend to the use of individual data sets forming part of the database's content.

If a repository that is a database were also, by virtue of the selection and arrangement of its content, the author's own intellectual creation – that is, if the criterion of originality were met – it would constitute a collective work or a "creative database". The structure of such a repository – in other words, simply how it looks and functions – would need to be unique and original, for example, in the way individual records are selected and organized. The operator of such a repository (if they are the person compiling it) would also hold a copyright to it – but not to its content, only to the structure and the method of selecting and organizing the content. If someone were to create a repository copying the structure of this original database, they would be infringing on the copyright of the repository operator, who could take legal action against this. On the other hand, if the structure of the repository were determined purely by technical considerations, rules, and restrictions, leaving no scope for creative freedom, it would not constitute a creative database.

If one of the co-authors contributes more to a collective work than the other co-authors, does their copyright carry greater weight?

It is co-authorship when two or more authors, through their creative work, produce a single collective work, even if it is possible to identify which parts of the work were created by the authors, provided that these parts are not intended for independent use (e.g. an interdisciplinary article to which experts from various fields have contributed, with each author writing a specific section; an infographic whose text and graphic elements were created by different authors; a complex software tool whose individual components (computer code, graphical user interface, application content, etc.) were created by different authors).

The extent to which individual co-authors have contributed to the creation of a work has no bearing on their rights. A copyright in such a work is held jointly and severally by all of the co-authors, and decisions regarding the use of the work must be taken unanimously by the co-authors – this means that all co-authors must agree on how the work is to be used in the future.

The extent of a co-author's contribution to the creation of a work may, however, be taken into account when distributing the joint proceeds from the rights to a co-authored work. Unless the co-authors agree otherwise, the law stipulates that each author's share of the proceeds should be proportional to the extent of their creative contributions. However, if it is not possible to distinguish between the contributions of the individual authors and determine the corresponding share, their shares of the joint proceeds are to be equal.

Can a member of the research team who did not contribute to the writing of the article but was involved in the research be listed as one of the co-authors?

Under copyright law, the author is the private individual who actually created the work through their creative activity. The same requirement applies in the case of co-authorship. A person who contributed to the creation of the work, for example, by providing assistance or advice, acting as a consultant, supplying documentary or technical material, or providing the impetus for the

work's creation, is not considered a co-author. An example might be a researcher who, while playing a significant role in the research or leading the entire research team, does not contribute in any way to the actual writing of the article that is the outcome of that research. Strictly speaking, from a legal perspective, this researcher is not regarded as a co-author.

However, in an academic environment, it is established practice to list among the authors of an article those who wrote the article itself as well as those who participated in the research or otherwise made a significant contribution to the writing of the article (e.g. by developing software for data processing), even though they did not write the article themselves. As mentioned above, these individuals should not, strictly speaking, be regarded as co-authors under law. However, there is a legal presumption of authorship, according to which anyone whose name is listed on a work in the usual manner is deemed to be an author. Thanks to this legal principle, the copyright belongs to all persons listed as authors. The academic practice described above does not, in principle, conflict with the law. Nonetheless, the presumption of authorship is rebuttable – this means that the persons listed are considered authors only until their authorship is contested and the contrary is proven. Moreover, it is advisable to consider carefully who and how many people to list as authors, given that each of the listed authors may wish to exercise their rights differently from the other co-authors, which may lead to complications when publishing works or even to legal disputes.