

## **General guidelines of the legal safeguarding of the CEAD database**

Preconditions of the operation of the *Central European Art Database*:

- 1) Obtaining the artist's consent with the processing and publishing of his personal data for the given purpose;
- 2) Registration of the Olomouc Museum of Art as the author of the CEAD database with the Office for Personal Data Protection;
- 3) Assessment of fulfilment / non-fulfilment of the conditions of use of a specific preview photograph depicting the work of art based on a compulsory licences;
- 4) In the event of a failure to satisfy the conditions of a compulsory licences to use a specific preview photograph, a license contract must be arranged and entered into either with the author of the given work of art or with the institution in whose collections the work of art is included, if it holds the given license, and with the author of the photograph;
- 5) The elements of the license contract must comply with the statutory requirements, and the license contract shall expressly regulate specific issues such as the venality, manner of use of the work of art etc.;
- 6) The use of photographs taken at the artist's exhibitions presenting the given work of art is subject to the above mentioned which applies to preview photographs;
- 7) Documents may be used based on the assessment of satisfaction / non-satisfaction of conditions of use of a specific document relating to the work of art in compliance with a compulsory license;
- 8) Audiovisual works may be used based on the consent of the author of the work of art with their publication for the given purpose;
- 9) In case of international legal relationships, such legal relationships should also be considered with respect to the relevant foreign law.

Considering the above mentioned, the Olomouc Museum of Art will proceed as follows:

- 1) It is not necessary to enter into contracts with the artists/ their heirs through institutions which will provide the data to the database, but it will be possible, according to the circumstances, to directly negotiate with the author of the work of art / its heirs in their own name, i.e. to establish a direct relationship between the Olomouc Museum of Art and the author of the work of art/its heirs or to enter into contract with the given institution if the

institution is entitled, based on a contract with the author / heirs, to grant a sublicense or to pass the license;

- 2) In the event of entering into a contract with institutions or persons other than the artist, it will be necessary to take into consideration that their declaration in the license contract about their title to the work of art does not have an effect on the unauthorized use of a copy of the work of art. Such declarations only affect the extent of damages;
- 3) It is advisable to indicate photographs by a copyright for preventative reasons;
- 4) It is always necessary to consider the given case individually with regard to the specific circumstances and to evaluate all relevant facts. Only after all facts of the given case have been assessed, further action may be chosen which will have to comply with the legal regulations in force, in particular the Copyright Act.

These General guidelines are only conclusions arising from detailed memorandum which was prepared in connection with the creation of the CEAD database. These General guidelines introduces some basic recommendation for the creation of CEAD database and does not contain all necessary legal evaluation. Each case has to be assessed with the respect to all substantial facts of the case and with respect to the rulling law.

In case of any content or legal discrepancies, do not hesitate to immediately inform us.