

Declarations in a qualification work

The text was prepared by M. Balík with a significant help by dr. Matějka and revised by JUDr. Janouch.

Methodical guideline No. 1/2009 On the observance of ethical principles in the preparation of university thesis literally states: The author of each university thesis will include this dated and signed statement on a separate page:

I hereby declare that the presented thesis is my own work and that I have cited all sources of information in accordance with the Guideline for adhering to ethical principles when elaborating an academic final thesis.

In addition, the declaration must be supplemented by a paragraph whose wording depends on the expected use of the work. The starting point for this text is to be found in a separate section in the end of the text.

Declaration 1 – universal

I hereby declare that the presented thesis is my own work and that I have cited all sources of information in accordance with the Guideline for adhering to ethical principles when elaborating an academic final thesis.

I acknowledge that my thesis is subject to the rights and obligations stipulated by the Act No. 121/2000 Coll., the Copyright Act, as amended, in particular that the Czech Technical University in Prague has the right to conclude a license agreement on the utilization of this thesis as a school work under the provisions of Article 60 (1) of the Act.

Use:

A universal text that does not bind the student or CTU (FIT) to anything beyond the law. Use this type if not required otherwise – either by you as the author or your supervisor; i.e., if the school does not insist on concluding a more favorable contract – however, the university's right to request a license in the future remains unaffected.

Pros and cons for CTU and FIT:

In the case of **computer programs** pursuant to Article 66 (7) of the Copyright Act, CTU may not use it for its own use, otherwise the regime of a school work with a contractual obligation enforceable by court applies.

Pros and cons for the thesis author:

As can be seen in the text below, it is unclear whether downloading of a program made available to public is a legal acquisition with the right for individuals to use it without the author's knowledge. In either case, legal entities cannot acquire a program this way.

Declaration 2 – free use for non-profit purpose

I hereby declare that the presented thesis is my own work and that I have cited all sources of information in accordance with the Guideline for adhering to ethical principles when elaborating an academic final thesis.

I acknowledge that my thesis is subject to the rights and obligations stipulated by the Act No. 121/2000 Coll., the Copyright Act, as amended. In accordance with Article 46 (6) of the Act, I hereby grant a nonexclusive authorization (license) to utilize this thesis, including any and all computer programs incorporated therein or attached thereto and all corresponding documentation (hereinafter collectively referred to as the "Work"), to any and all persons that wish to utilize the Work. Such persons are entitled to use the Work for non-profit purposes only, in any way that does not detract from its value. This authorization is not limited in terms of time, location and quantity.

Use:

Use this text if both the student and the supervisor agree with a free use for non-profit purposes (equivalent to GNU GPL).

Pros and cons for CTU and FIT:

CTU can use the work, but it doesn't have an exclusive or otherwise specific contract.

Declaration 3 – a license with the University is concluded right away

I hereby declare that the presented thesis is my own work and that I have cited all sources of information in accordance with the Guideline for adhering to ethical principles when elaborating an academic final thesis.

I acknowledge that my thesis is subject to the rights and obligations stipulated by the Act No. 121/2000 Coll., the Copyright Act, as amended. I further declare that I have concluded a license agreement with the Czech Technical University in Prague on the utilization of this thesis as a school work under the provisions of Article 60(1) of the Act. This fact shall not affect the provisions of Article 47b of the Act No. 111/1998 Coll., the Higher Education Act, as amended.

Use:

Use this declaration text if the work is intended for a school, a research group, etc. The dean concludes the license agreement.

Pros and cons for CTU and FIT:

Everything is settled in the license agreement.

Pros and cons for the thesis author:

Everything is settled in the license agreement.

Declaration 4 – Equivalent to LGPL

I hereby declare that the presented thesis is my own work and that I have cited all sources of information in accordance with the Guideline for adhering to ethical principles when elaborating an academic final thesis.

I acknowledge that my thesis is subject to the rights and obligations stipulated by the Act No. 121/2000 Coll., the Copyright Act, as amended. In accordance with Article 46(6) of the Act, I hereby grant a nonexclusive authorization (license) to utilize this thesis, including any and all computer programs incorporated therein or attached thereto and all corresponding documentation (hereinafter collectively referred to as the "Work"), to any and all persons that wish to utilize the Work. Such persons are entitled to use the Work in any way (including for-profit purposes) that does not detract from its value. This authorization is not limited in terms of time, location and quantity. However, all persons that makes use of the above license shall be obliged to grant a license at least in the same scope as defined above with respect to each and every work that is created (wholly or in part) based on the Work, by modifying the Work, by combining the Work with another work, by including the Work in a collection of works or by adapting the Work (including translation), and at the same time make available the source code of such work at least in a way and scope that are comparable to the way and scope in which the source code of the Work is made available.

Use:

Always if the work uses LGPL (library, subprogram, etc.).

Pros and cons for CTU and FIT:

Evident from the declaration.

Pros and cons for the author of thesis:

Evident from the declaration.

Declaration 5 – free use for absolutely everyone

I hereby declare that the presented thesis is my own work and that I have cited all sources of information in accordance with the Guideline for adhering to ethical principles when elaborating an academic final thesis.

I acknowledge that my thesis is subject to the rights and obligations stipulated by the Act No. 121/2000 Coll., the Copyright Act, as amended. In accordance with Article 46(6) of the Act, I hereby grant a nonexclusive authorization (license) to utilize this thesis, including any and all computer programs incorporated therein or attached thereto and all corresponding documentation (hereinafter collectively referred to as the "Work"), to any and all persons that wish to utilize the Work. Such persons are entitled to use the Work in any way (including for-profit purposes) that does not detract from its value. This authorization is not limited in terms of time, location and quantity.

Use:

The declaration should not be use if a part of the work is a subprogram distributed under another license, as GPL, LGPL, etc.

Declaration 6 – a restrictive variant for cases the University waives the right to license

I hereby declare that the presented thesis is my own work and that I have cited all sources of information in accordance with the Guideline for adhering to ethical principles when elaborating an academic final thesis.

I acknowledge that my thesis is subject to the rights and obligations stipulated by the Act No. 121/2000 Coll., the Copyright Act, as amended. I further declare that I have concluded an agreement with the Czech Technical University in Prague, on the basis of which the Czech Technical University in Prague has waived its right to conclude a license agreement on the utilization of this thesis as a school work under the provisions of Article 60(1) of the Act. This fact shall not affect the provisions of Article 47b of the Act No. 111/1998 Coll., the Higher Education Act, as amended.

Use:

Use this declaration text if the work is commissioned, if the author wants to keep it or does it for an external company. This statement is subject to the approval of the dean of FIT and is subject to a fee (reimbursement of costs up to CZK 10,000, but it may be reduced to CZK 0 in specific cases). Further procedure is stipulated by the Dean's Directive No. 37/2019.

Pros and cons for CTU and FIT:

CTU waives the right to conclude a license.

Pros and cons for the author of the thesis:

The author is fully in charge with respect to the use of the work.

Qualification thesis and Copyright, Higher Education Act, etc.

As qualification work – for the purpose of this text – are dissertations, Master's thesis, Bachelor's thesis and advanced Master's thesis ('rigorózní'). Most of the information below can be applied to term papers and similar works as well.

To assess the impact of individual laws, it is necessary to distinguish computer programs from other student works, we thus begin by defining a computer program as a term.

A computer program

A computer program is a copyrighted work if it meets the condition set out in Article 2(2) of the Copyright Act: "A computer program shall also be considered a work if it is original in the sense that it is the author's own intellectual creation." If the above stated condition of originality is met (in practice, almost always), the computer program is protected as a literary work – see Article 65(1) of the Copyright Act: "A computer program, irrespective of the form in which it is expressed, including

preparatory design material, shall be protected as a literary work." On the contrary, "the ideas and principles which underlie any element of a computer program, including those which underlie its interfaces," are not protected.

For more details see Articles 65 and 66 of the Copyright Act.

School work

Another important term is the term school work, as defined in Article 35(3) of the Copyright Act:

A work created by a pupil or student as a part of his school or educational assignments ensuing from his legal relationship to his school or the school-related or educational establishment.

Can I, as a student, prevent a school from benefiting from my program, which I intend to submit as a qualification work because I plan to use it in a company?

FIT CTU is **not allowed** to use programs of their students, which arise as part of their qualification works for FIT's own and non-profit purposes (it follows from Article 66(7) of the Copyright Act and it is included in the renowned commentary on the Copyright Act by prof. Telc (2007)).

Generally, the management of school works (from now on, we do not restrict ourselves to computer programs) are regulated both in Article 35 of the Copyright Act and further specified in Article 60 of the Copyright Act. Pursuant to Article 35(3) of the Copyright Act, a higher education institution has the right to use a work created by a student to fulfill his/her study obligations arising from his/her legal relationship with a higher education institution (so-called school work), however, the higher education institution has a right to use it only for non-profit purposes, i.e., for teaching or their internal use. However, this does not apply to a computer program pursuant to Article 66(7) of the Copyright Act.

Pursuant to Article 60(1) of the Copyright Act, the higher education institution (i.e., beyond the scope of Article 35 of the Copyright Act) has the right to ask the student to transfer the license to the school work to the school (even a computer program) under usual conditions; a student may refuse to grant such a license only for serious reasons. Unless there is such a compelling reason, the higher education institution may seek the license by a legal action. Under certain circumstances, a higher education institution has the right to ask the student to cover the costs incurred in creating the school work (Article 60(3) of the Copyright Act). The license is generally non-exclusive, unless the higher education institution has a legitimate interest in it being exclusive (Article 60(2) of the Copyright Act). These provisions also apply to computer programs.

Will the school make my program freely accessible, hence, in principle, it allows it to be stolen?

Yes, if it is part of the qualification work. According to the provisions of Section 47b(1) of Act No. 111/1998 Coll. On Higher Education Institutions, as amended (hereafter The Higher Education Act), a public higher education institution publishes for non-profit purposes Bachelor, Master, Doctoral and advanced Master ('rigorózní') theses that have been defended, including reader's report¹ and the document on the course of the defense and the results of the defense through the database administered by the higher education institution, unless it has been published in another manner. The method of publication shall be laid down in an internal regulation of the higher education institution. At the same time, by submitting the work, the author agrees with the publication of his/her work under this Act, regardless of the outcome of the defense (Section 47b (3) of the Higher Education Act). It can be inferred from the text of this provision that this is an irrefutable presumption (i.e., in the event of a court proceeding, proof of the contrary is not admissible and in principle no consent can be revoked or reversed). Everyone (including the public higher education institution itself) can then make copies, extracts or reproductions of the published work. However,

¹ in FIT's terminology: 'reviewer's report'

pursuant to Section 47b (4) of the Higher Education Act, a higher education institution may postpone the publication of Bachelor, Master, Doctoral and advanced Master ('rigorózní') theses or their parts for the duration of the obstacle to publication (here, the law refers to the Copyright Act, Act on Protection of Classified Information and provisions of the Civil Code on trade secrets and unfair competition), but for a maximum of 3 years. Information about postponement of publication must be published together with the reasons in the same place where the Bachelor, Master, Doctoral and advanced Master ('rigorózní') theses are published. The higher education institution shall send without undue delay after the defense of the Bachelor, Master, Doctoral and advanced Master ('rigorózní') theses, which is concerned with the deferral of publication pursuant to the first sentence, one copy of the thesis to be kept by the Ministry.

Therefore, it might seem that if a computer program is a part of a Bachelor, Master, Doctoral or advanced Master ('rigorózní') theses, it should be published in accordance with the provisions of Section 47b of the Higher Education Act and in accordance with the internal regulation of the relevant public higher education institution, with the exceptions specified above, i.e., works already published in another manner and those, whose publication has been postponed. However, it should be further emphasized that, unlike most other copyrighted works, computer programs do not have the possibility of being used freely for a personal use by an individual (legal entities cannot use it under these circumstances at all), so it can be argued that when a computer program is published as part of the Bachelor, Master, Doctoral or advanced Master ('rigorózní') theses, although everyone has the right to make a copy of it, he/she may no longer use the copy without the author's consent (such as make a copy of a program to install it into a computer memory), as confirmed by the judgment of the Supreme Court of 29 October 2015, file no. 30 Cdo 2864/2015.

As the author of the program, can I offer the school to use my program commercially?

If a school work created by a student has commercial potential, it can be offered for commercial use through the school in accordance with the Dean's Directive 37/2019 (the school then assumes a role of a distributor or an intermediary of the subsequent distribution via a third party); the student concludes a license agreement, in which the rights and obligations, including remuneration for the student, are determined on the basis of an agreement with the school. This cooperation is mutually beneficial for both the school and the student; the school does not exercise the statutory entitlement to conclude a license agreement under "usual conditions" and the student can agree on more favorable conditions, depending on the commercial potential of the work created by him/her.

As the author of the program, can I offer it to be used freely?

Nothing prevents a student, for example, in the form of a statement attached to the qualification work (thesis) to determine the terms of his/her consent to use the computer program, which is part of the thesis, and these conditions may allow wider use than the provisions of Article 60 (1) of the Copyright Act, though the statement shouldn't make the conditions narrower). Such a procedure is allowed by Section 2373(2) of Act No. 89/2012 Coll., The Civil Code, as amended, which implies that it is sufficient for the licensor to publish the license terms (e.g., by a statement intended for an unspecified circle of entities) and the acquirer accepts these terms and conditions by maintaining them, that is, begins to use the work in question, and thus these terms also become binding.

It can therefore be concluded that in relation to a computer program that a student of a public higher education institution creates by fulfilling his/her study duties:

- a) A public higher education institution doesn't have the right to use this program without the author's consent neither in education nor for any other non-profit purpose pursuant to Article 35 (3) of the Copyright Act, since the provisions of Article 35 (3) of the Copyright Act are not applicable to a computer program, according to Article 66 (7) of the Copyright Act;
- b) However, a public higher education institution has the right to grant (usually non-exclusive) license to such a computer program (including its commercial use) under usual conditions and other rights under Article 60 of the Copyright Act (e.g., under certain

- circumstances right to cover the costs incurred by creating the work), the student may refuse to grant licenses only for serious reasons, and such a serious reason will normally not be that the student intends to use such a computer program elsewhere;
- c) A public higher education institution should publish a computer program that is part of a Bachelor, Master, Doctoral or advanced Master ('rigorózní') theses pursuant to Section 47b of the Higher Education Act, unless the work has already been published in another manner or postponed for reasons stated in Section 47b (4) of the Higher Education Act. Anyone may make copies of such a computer program published in such a manner, but according to available case law, he/she may no longer use such copies (e.g., install them in the computer's memory) without the consent of the student-author of the computer program;
 - d) A student may, in general, determine the terms of use of this computer program by making a statement; anyone who intends to use this program will then agree to these terms by starting to use the program (Section 2373 (2) of the Civil Code);
 - e) It follows from the conclusions (a) – (d) above that if a public higher education institution wants to be sure that a computer program that is part of a student's work can be used, it is recommended to either conclude a license agreement according to Article 60(1) of the Copyright Act, or obtaining a statement from the student under what conditions such a computer program can be used – the public higher education institution will express its acceptance of such conditions by commencing use of the computer program and by that, the institution is bound by these conditions.

On the other hand, if a public higher education institution would like to use a school work beyond its use under Article 35 (3) of the Copyright Act (e.g., for profit), it should either have a license agreement that the student is obliged to conclude with the higher education institution under usual conditions according to the provisions of Article 60 (1) of the Copyright Act, or a student would have to make a general statement that allows his/her work to be used freely (whether by school or by others) and the school would have to accept it (see also above). In assessing the question of what licensing conditions are usual, it is obvious that in the case an agreement between the student and the school fails to be concluded, an expert assessment is needed. If a student unreasonably refuses to grant a license agreement (but not the general statement), it is possible to apply for a license by court.

As to the question whether a public higher education institution can "profit" from its students' programs, it can be stated that nothing from the copyright point of view (subject to the above conditions) prevents this. On the other hand, the question is to what extent such conduct would be in accordance with the mission of the public higher education institution and the relevant public law regulations (see, for example, Section 20 of the Higher Education Act). For this reason, the Dean's Directive No. 37/2019 (see above) was issued, which sets out incentive rules in case a work created by a student has commercial potential, including student remuneration.

The school is obliged to publish the theses. Does it affect the right of the author (copyright)?

Section 47b of the Higher Education Act states:

Providing Public Access to Theses

- 1) Higher education institutions are obliged to make public, at no profit to themselves, the Bachelor, Master, Doctoral, and advanced Master ('rigorózní') theses that have been defended at their institutions, including the readers' reports² and the document on the course of the defence and the results of the defence. The institution will do this by making available a database of these theses. The means of providing access to these theses is stipulated in the internal regulations of the higher education institution. The higher

² in FIT's terminology: 'reviewer's report'

education institution will not make a Doctoral thesis public, if the Doctoral thesis was already made public by other means.

- 2) Bachelor Master, Doctoral, and advanced Master ('rigorózní') theses that have been submitted by candidates for defence must also be made available to the public at least five days before the defence at a place designated for this purpose in the internal regulations of the higher education institution, and where this is not the case, in the department or other place at the higher education institution where the defence of the thesis will be taking place. Any individual is entitled, at his/her own expense, to make extracts, copies or photocopies of theses thus made available
- 3) By handing in a thesis, its author automatically gives assent to its being made public pursuant to the provisions of the Act, irrespective of the result of the defense.
- 4) A higher education institution can delay the publication of Bachelor, Master, Doctoral, and advanced Master ('rigorózní') theses or their parts for the duration of the barrier to publishing³, but only for three years. Information about the delay together with the reasons must be published in the same place as the Bachelor, Master, Doctoral, and advanced Master ('rigorózní') theses. After the defense of the Bachelor, Master, Doctoral, or advanced Master ('rigorózní') theses which is to be published with delay in compliance with the first Sentence, the higher education institution will send one copy to the Ministry to be stored, without undue delay.

In terms of copyright terminology (Section 4 of the Copyright Act), the use of the term publication is inaccurate, since in this case the publication will only concern readers' reports⁴ (if they are copyrighted and have not been published before), but in the case of a qualification work – that has been made public before the defense, the proper term should be (made) open to the public.

Article 11 (1) of the Copyright Act: The author shall have the right to decide about making his work public. Section 47b (3) of the Higher Education Act provides for a free decision whether the author waives this right. If he/she does not want to give it up, this work cannot be considered a qualification work.

What will be made open to the public?

The bibliographic data are published automatically using the CTU database (CTU Theses).

Items in bold are required by law:

1. **Thesis title**
2. Thesis subtitle
3. Translation of the thesis title
4. Translation of the thesis subtitle
5. **Author of the thesis**
6. Author's date of birth
7. Subject description of the thesis
8. **Abstract**
9. Institution responsible for the archiving and publishing the thesis
10. Persons participating at the supervision of the thesis
11. Persons participating at the reading of the thesis

³ For example, Act No. 121/2000 Coll., on Copyright, on Rights Related to Copyright, and on Amending Certain Acts (Copyright Act), as amended, Act No. 412/2005 Coll., on the Protection of Classified Information and on Security Competence, Sections 504, 2976, and 2985 of the Civil Code.

⁴ in FIT's terminology: 'reviewer's report'

12. **Date of creation / submission of the thesis**
13. Date of defending the thesis
14. **Type of thesis**
15. **Form of thesis**
16. **Thesis Identifier**
17. **Language of the thesis**
18. Rights to use the thesis
19. **Academic degree awarded**
20. Type of study program
21. **Study program and branch**
22. **Institution awarding the degree**

At CTU, publication of the final thesis is handled by RECTOR'S ORDER No 6/2006:

Article 2

Publishing of the final theses

- 1) Final theses submitted for defense are available to the public at least five working days prior to the defense in printed form at the workplace where the defense will take place.
- 2) Defended theses, including reviewers' reports and the results of the defense, are published in printed form either at the workplace where the defense took place (department, institute) or in the library of the relevant faculty or university institute.

Article 3

Making the defended final thesis available to the public

- 1) Defended theses are accessible as a bibliographic record in the electronic catalog of CTU library. Printed copies are available to be viewed either at the workplace where the thesis defense took place (department, institute) or in the library of the relevant faculty or university institute.
- 2) Data for a full description of defended theses (bibliographic records) are imported into the electronic catalog of CTU library from the CTU Information System (KOS database). It is mandatory to complete the data in KOS related to the final thesis (Appendix 1).

Article 4

Archiving the final thesis

- 1) The Bachelor's, Master's and Doctoral theses will be stored for a period of ten years from the defense at the faculty or institute. At the end of this period, they will be treated in accordance with the Document and Management System of CTU in Prague.

The Higher Education Act states in Section 47b (2) the following provision for making the final work accessible: Everyone can make extracts, copies or reproduction of the publicly available work at his/her own expense.

That is, not even the law gives us the obligation to electronically distribute the entire content of the thesis, including attachments. On the other hand, it is necessary to keep the whole text of the qualification work, including appendices; this is especially for creating reviewer's report and supervisor evaluation, and also for the possible dispute at or after the thesis defense. However, the school is not obliged to provide copies and/or reproduction of the accompanying media, as a matter of fact, the school is not even obliged to make them available for copying.

Other related documents

- Act No. 111/1998 Coll., Higher Education Act
- Study and examination Code for students of CTU
- Act No. 121/2000 Coll., Copyright Act
- Act No. 499/2004 Coll., regulating Archiving a Document Management
- FIT Dean's Directive No. 36/2019
- FIT Dean's Directive No. 37/2019
- Methodical guideline CTU No. 1/2009 For adhering to ethical principles when elaborating on academic final thesis
- CTU Rector's Order No. 6/2006 On Publishing the final thesis at CTU in accordance with Section 47(b) of Higher Education Act No. 111/1998 Coll.
- How to write final thesis 'Jak psát vysokoškolské závěrečné práce', Central Library CTU
- <http://www.businessinfo.cz/cz/clanek/orientace-v-pravnich-ukonech/pravo-autorske-vyjimky-a-omezeni-opu/1000818/51244/> // information on computer programs and copyright