

## **COPYRIGHT PROTECTION OF THE WORKS OF RUDOLF STEINER ON THE BASIS OF A NEW LEGAL OPINION (2014)**

The Rudolf Steiner Archiv, Dornach, is tasked with the preservation, advancement, research and publication of the scientific, literary, artistic and biographically relevant material of the estate of Rudolf Steiner (1861 to 1925) on behalf of the Rudolf Steiner Nachlassverwaltung. The extensive works are published in collaboration with Rudolf Steiner Verlag AG, which has been an independent publishing company since 2007. The latter is responsible for the production, distribution and sale of the Gesamtausgabe (GA), which is conceived as a general and scholarly edition of the collected works of Rudolf Steiner.

The GA currently comprises some 350 volumes. In addition to writings published during Steiner's lifetime, the GA includes approximately 5000 lectures published posthumously, as well as blackboard drawings, artistic works and other material. More than 600 notebooks, several thousand notes and sketches, and a complete edition of the letters written to and by Steiner have yet to be published. The written, spoken and artistic works, which fall within the various sections of the GA, have also yet to be completed. The preservation, advancement and publication entail an enormous amount of time and effort, if only because of the sheer size of the task.

### **Expiry of the term of copyright for the works of Rudolf Steiner**

Following the 70-year term of copyright protection, Steiner's works are now in the public domain (regardless of any minor differences in the legal precedents of individual countries).

Copyrights to the works of Rudolf Steiner are therefore no longer asserted. This also applies, in particular, to Steiner's lectures that were reconstructed by the editors at the Rudolf Steiner Archiv based on the notes and transcripts produced by dedicated audience members and professional stenographers. However, translations, photographs and other derivative works remain subject to copyright protection, provided that, pursuant to Swiss copyright law, such works were produced by persons who died after 30 June 1943 and for which the 70-year term of copyright protection has not yet expired.

### **Copyright protection and editorial work**

As creative ideas, the lectures and blackboard drawings of Rudolf Steiner were subject to copyright protection. However, the notes taken by audience members and the editing undertaken to create publishable text editions of the lectures are not deemed 'derivative works' or considered in terms of any kind of co-authorship, as they do not exhibit the unique character of an intellectual creation.

Stenographers, as well as other note-takers and audience members, attempted to record the fleeting form of the spoken word as accurately as possible. The generally accepted legal position is therefore that they are primarily considered mere assistants. This applies analogously to the editors of the written records, in so far as the editors aim to use one or several transcripts, notes and records to produce a text that is as close as possible to the assumed 'original' words of Steiner's lecture. In this respect, careful note-taking and editorial compilation are not deemed creative activities and, as such, the work thereby produced is not subject to copyright protection.

However, where the editing required to compile an accurate text results in the addition of explanatory notes and comments clarifying editorial principles or the history of publication, these are to be valued as independent intellectual works, or at least as derivative works. Consequently, they qualify for protection under copyright law and are also protected by competition law with regard to publication. Rudolf Steiner Verlag and the Rudolf Steiner Nachlassverwaltung assert these rights for a period of 70 years after the death of the author in relation to work and publishing contracts that have been entered into by them.

### **Managing Rudolf Steiner's estate and the works of the GA**

The Rudolf Steiner Nachlassverwaltung and Rudolf Steiner Verlag endeavour to issue the works of Rudolf Steiner and produce carefully produced publications in accordance with the terms of Marie Steiner's will, which stipulates that "the publication of the works of Rudolf Steiner should be undertaken where possible and with the best knowledge and in good faith in such a manner that the intellectual property contained therein is not exploited and Rudolf Steiner's name remains linked to the works".

In order to safeguard these non-commercial purposes and aims of the Rudolf Steiner Nachlassverwaltung, appropriate financial resources are required. Rudolf Steiner Verlag compensates the Rudolf Steiner Nachlassverwaltung with a percentage of the proceeds from the sale of Steiner titles in the same way that licence holders have done hitherto in the case of foreign translations. This only constitutes a modest contribution, however, to the time-consuming editorial work. In order to achieve the long-term goal of publishing Steiner's complete works, the Rudolf Steiner Archiv requires significant financial support for preservation and publication of the works, as well as for subsidies to Rudolf Steiner Verlag towards printing costs.

The findings of this reappraisal of the copyright situation regarding the works of Rudolf Steiner, which replaces all previous legal advisory opinions, can be summarised as follows:

- The works by Rudolf Steiner himself, including the lectures revised and edited by the Nachlassverwaltung, are free of copyright restrictions; independent editions of these works can therefore be published by third parties.
- Third parties are prohibited from adopting volumes in Rudolf Steiner Verlag's collected works (GA) on the grounds of competition and publishing law. Alternatively, adoption is permitted but only with the explicit permission from Rudolf Steiner Verlag. Comments by the editors in the volumes of the GA are also under copyright protection.

Basel and Dornach, January 2015

Jonathan Stauffer

David Marc Hoffmann

Publishing Director of Rudolf Steiner Verlag

Director of the Rudolf Steiner Archiv