

Q & A

Why is the Anne Frank Fonds (AFF) the copyright holder of the Frank family?

Otto Frank established the Anne Frank Fonds as a Swiss charitable foundation in 1963. It was the only Anne Frank foundation he established. He made the organisation his universal heir. As such, the Anne Frank Fonds inherited all copyrights of Anne and Otto Frank when Otto Frank deceased. The Fonds' aim is to represent the legacy and the family, and to make the diaries and works by Anne Frank accessible to the general public. All income from the copyrights of the diaries is used for educational or charitable projects. The AFF represents the personality rights of the Frank family and, together with the surviving family members, acts as an advocate for a family that was almost totally exterminated in the Shoah.

May I work with the text of the diary?

No, not without the AFF's permission. Rights must be granted before the texts may be processed or utilised. Enquiries about these rights can be addressed to the Anne Frank Fonds (info@annefrank.ch). The Anne Frank Fonds licenses rights around the world and supports, in particular, their use for educational purposes.

Whose copyrights apply to the diary?

It goes without saying that copyrights to Anne Frank's original texts originally belonged to the author, Anne Frank herself.

Two versions of the diary have been published: one in 1947, compiled by Otto Frank, and one in 1991, compiled by Mirjam Pressler. These publications consist of adaptations by Otto Frank and Mirjam Pressler, respectively, and the copyrights to these adaptations have been vested in Otto Frank and Mirjam Pressler, who in effect created readable books from Anne Frank's original writings.

As is explained above, the AFF inherited the copyrights of Anne and Otto Frank. The rights to Mirjam Pressler's version of the diary also belong to the foundation.

Are the copyrights to Anne Frank's Diary due to expire shortly?

No. It should not be assumed that the copyrights to Anne Frank's Diary are due to expire in the near future, or that anyone will be free to use and publish the diary without permission from the AFF.

So when do the copyrights to the diary expire?

The answer varies from country to country. As copyright law is determined at a national level, each country has its own rules as regards the term of protection.

It is important to note that, in most countries, the general rule for the period of protection, namely the author's (i.e. Anne Frank's) lifetime, plus 50 or 70 years, does not apply. Instead, as a result of the complicated history of the original versions of the diary and its in-print versions, exceptions to the main rule apply.

Even within Europe where legislation has been adopted at a European level in the form of a Directive aiming to harmonize the term of copyright protection across the continent, differences still exist. This is because the Directive specifically requires the European countries to maintain any already running terms of protection that extend beyond the general term prescribed in the directive.

As a consequence, in Spain for instance, where a term of protection longer than the one prescribed by the directive applied to the diary, the longer term remains applicable.

Furthermore, in many countries within the EU and elsewhere, it was stipulated that a term of 50 years of protection for works first published posthumously would only start at the date of first publication. As Anne Frank's original writings were first published in the 1980s, they will remain protected for many decades.

The United States have a very different way of calculating the term of protection of works first published between the 1920s and 1970s: they are simply protected for 95 years from the date of their first publication. The diary was first published in the US in the 1950s, which means it will remain protected until the 2040s.

The in-print version of the diary was compiled by Otto Frank shortly after the war from the two overlapping, but incomplete, versions of the diary left by Anne Frank. In all countries we surveyed on this matter, experts confirmed that Otto Frank earned his own copyright to his compilation which will last for at least a further 50 or, in many countries, 70 years from the time of his death in 1980. As Mirjam Pressler did the same as Otto Frank and only deceased in 2019, the rights vested in her will apply for even longer.

In summary, Anne Frank's original writings, as well as the original in-print versions will remain protected for many decades.

What about translated works?

As is the case for Otto Frank and Mirjam Pressler with regard to their respective compilations, translators earn their own right to their translation. Depending on the country, rights to translations expire 50 or 70 years after the death of the translator. In most countries in-print versions are translations of Mirjam Pressler's 1991 version of the diary. In consequence, it may be assumed that many of the translators are still alive and that the rights to the translations concerned will last for at least a further 50 or, in some countries, 70 years.

Who owns all copyrights to the diaries and works by Anne Frank?

All copyrights vested in Anne and Otto Frank were transferred to the AFF Basel in 1980 following the death of Otto Frank. The rights to the original texts, to the adaptations by Otto Frank and Mirjam Pressler, and to other adaptations are the property of the foundation. In the case of translations, the AFF shares the rights with many publishing houses.

Does the Anne Frank Fonds protect copyrights for financial considerations?

The AFF is a charitable foundation under Swiss law and supervision. The operative Board of Trustees serves in an honorary capacity and some of the partners and lawyers work *pro bono publico*. The AFF runs a small office with three employees and generally does not participate in project costs, which are all outsourced to publishing houses and, for example, TV and film producers. In the case of educational projects, the AFF becomes involved according to the objectives of the foundation. The aim and purpose of the Anne Frank Fonds is to disseminate the diary as a basis for educational work in the spirit of the founder. By actively protecting the copyrights, the AFF pursues the authentic usage, with respect and integrity, of Anne Frank's work. All income from these activities is used for charitable and educational purposes. Since the 1980s when accusations about the diary being inauthentic were levelled, the Anne Frank Fonds has increased its level of protection of the diary; even though these accusations were refuted by the German Crime Commission, they still persist today.

What are the risks of using the diary, or parts of it?

Otto Frank entrusted the AFF with ensuring that the proceeds of the copyrights of the Frank family, including Anne and Otto Frank's rights, are used for charity, good causes and educational projects around the world. In addition, the Anne Frank Fonds has the task of safeguarding the memory and legacy of the Frank family as well as the authenticity of work using the writings of Anne Frank. The foundation intends to continue to fulfil Otto Frank's wishes. It will vigorously enforce its copyrights, if necessary, as has been the case in the past.

Does the AFF take legal action in the case of infringements?

Where infringements cannot be solved by means of dialogue and reason, the AFF takes legal action to protect its rights. The Anne Frank Fonds will not hesitate to bring a case to the courts, if this becomes necessary. Whoever is found to have infringed its rights will have to cease the infringing activities, to compensate for damages - which the Anne Frank Fonds will pass on to charity - and, in many countries, to compensate the Anne Frank Fonds for the actual legal costs (i.e. the lawyers' bill), which may be considerable. Furthermore, in certain jurisdictions, such as the United States, copyright infringers may be liable to pay statutory damages, which may amount to up to \$150.000 per infringement.

Why does the Anne Frank Fonds not turn a blind eye?

Together with Otto Frank, the Anne Frank Fonds has allocated rights and licences to publishing houses, producers and other partners around the world. The AFF protects allocated and existing rights with the particular aim of preserving a fragile work with a high level of authenticity and integrity against destructive usage.

How can I obtain a licence to use the diary?

You can apply for a licence here (info@annefrank.ch).

How can I ensure that I am not infringing any rights?

The Anne Frank Fonds advises applicants and also helps clarify the issue of rights pertaining to copyright, use of material from the archives, processing of family stories, and the use of photos and documents.

There are many Anne Frank organisations and schools around the world. What is the position of the Anne Frank Fonds in this matter?

Indeed, there are many private institutions around the world in cities such as Amsterdam, London, Berlin, Frankfurt and New York. The Anne Frank Fonds works in close partnership with many of them, particularly in the field of education by providing subsidies and material. In Frankfurt, the AFF founded the Frank Family Centre together with the City of Frankfurt and the Jewish Museum of the City of Frankfurt. This is where the archives of the old Frankfurt families Frank, Elias, Stern and Kahn, who are all Anne Frank's ancestors, are made accessible to the public.