

Act LXXVI of 1999

On Copyright¹

Modern copyright regulation that keeps up with technological development plays a decisive role in encouraging intellectual creation and preserving national and universal cultural heritage. It creates and maintains the balance between the interests of authors and other copyright owners as well as users and the broader public in consideration of the demand for education, academic and scientific research, and access to free information. Copyright regulation also ensures the extensive and effective enforcement of copyright and subsidiary rights. In consideration of the above - in harmony with Hungary's international commitments and with European Communities legislation regarding the protection of intellectual property rights - Parliament has adopted the following act:²

PART ONE

GENERAL PROVISIONS

Chapter I

INTRODUCTORY PROVISIONS

The Object of Copyright

Section 1

(1) This Act protects literary, academic, scientific, and artistic works.

(2) All literary, academic, scientific, and artistic works are protected by copyright, regardless of whether they are designated in this Act. The following in particular are considered works of this kind.

a) Literary works (e. g. literature, technical writings, and academic and scientific publications)

b) Public speeches

c) All forms of computer programs and the related documents (hereinafter referred to as „software”), whether recorded as source code, object code, or in any other form; including user programs and operating systems

d) Plays, musicals, ballets, and pantomimes

e) Musical compositions with or without lyrics

f) Radio and television plays

¹ Passed by Parliament on July 6, 1999.

² Established: by Section 51 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Amended: by Section 42 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

g) Motion picture and other audiovisual works (hereinafter jointly referred to as „motion picture works”)

h) Works made by means of drawing, painting, sculpting, engraving, lithography, or in any other similar manner as well as the designs therefor

i) Photographic works

j) Maps and other cartographic works

k) Architectural works and their plans as well as the plans for building complexes and urban architecture

l) Designs for technical structures

m) Applied art works and their designs

n)³ Costumes and scenery, and their designs

o) Industrial designs.

p)⁴ any database recognized as a compilation.

(3) A work or creation is entitled to copyright protection on the basis of its individualistic and original nature deriving from the intellectual activity of the author. Copyright protection does not depend on quantitative, qualitative, or aesthetic characteristics or any judgment of the quality of the work.

(4)⁵ Laws and other legal instruments of the Government, court rulings and regulatory resolutions, regulatory and other official communications and documents, standards prescribed as mandatory by law and other similar regulations do not fall within the scope of copyright protection.

(5)⁶ Copyright protection does not extend to facts and daily news items underlying announcements released in the printed press.

(6) Ideas, principles, theories, procedures, operating methods, and mathematical operations are not entitled to receive copyright protection.

(7) Folklore expressions cannot receive copyright protection. This provision does not concern copyright protection due the creators of individualistic and original works that have been inspired by folk art.

(8)⁷ The performances of performers, sound-recording producers, radio and television organizations, filmmakers and creators of databases shall receive the protection that is stipulated in this Act.

³ Established: by Section 33 of Act XVI of 2013. In force: as of 1. 04. 2013.

⁴ Enacted: by Section 1 of Act LXXVII of 2001. In force: as of 1. 1. 2002. Shall apply to the authorization agreements concluded subsequently.

⁵ Established: by subparagraph k) paragraph (1) Section 67 of Act XLVIII of 2001. In force: as of 1. 01. 2002.

⁶ Established: by Section 52 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁷ Established: by Section 2 of Act LXXVII of 2001. In force: as of 1. 1. 2002. Shall apply to the authorization agreements concluded subsequently.

Scope of the Act

Section 2

The protection stipulated in this Act extends to works that were first published abroad only if the author is a Hungarian citizen or if the author is entitled to protection on the basis of an international treaty or reciprocity.

Section 3

The provisions of the Civil Code must be applied to those matters not regulated in this Act.

Copyright

Section 4

- (1) The person who creates a work (author) is entitled to copyright.
- (2) Copyright protection extends to the reworking, adaptation, or translation of the work of another author - without any injury to the rights held by the author of the original work - if it has an individualistic and original nature.

Joint Works

Section 5

- (1) If the parts of a joint work produced by several authors cannot be used independently, the joint authors shall be entitled to copyright protection jointly and, if there is any doubt, in equal measure. However, any of the joint authors is entitled to take independent action against copyright violations.
- (2) If the parts of a joint work can be used independently as well (connected works), each author can exercise the copyright independently with regard to his/her own part. The approval of all of the authors of the original joint work is necessary for connecting a part of the originally created joint work, which consists of connected works, with another work.

Collective Works⁸

Section 6

- (1)⁹ A natural person, legal person, or de facto corporation that publishes a work that has been created upon its initiative and under its direction and published in its own name is, as the authors' legal successor, entitled to copyright in the jointly created work (i.e. national standards).

⁸ Enacted: by Section 34 of Act XVI of 2013. In force: as of 1. 04. 2013.

⁹ Established: by subparagraph l) paragraph (1) Section 67 of Act XLVIII of 2001. In force: as of 1. 01. 2002.

(2) Jointly created works are those works in which the contributions of the cooperating authors are united in the resulting uniform work in such a manner that the rights of the individual authors cannot be separately determined.

Compilations

Section 7¹⁰

(1) Compilations are protected by copyright if the collection, arrangement, or editing of their content is individual and original (collection of works). Collections of works are protected by copyright even if their parts or components are not or cannot be protected by copyright.

(2)¹¹ Editors are entitled to copyright in the entire collection of works. This, however, does not concern the independent rights of the authors of the individual works and the owners of related rights that have been included in the compilation.

(3) The copyright protection of collections of works does not cover the components that constitute their contents.

Works Published Anonymously or Under a Pseudonym

Section 8

If a work is published anonymously or under a pseudonym, whoever published the work for the first time is entitled to exercise copyright until the author takes action.

Origins of Copyright and Copyright in Financial Circulation

Section 9

(1) An author is entitled to the sum total of copyright - inherent and economic rights - from the time a work is created.

(2) Authors cannot assign or waive their moral rights or have these rights assigned to another person in any other manner.

(3) With the exceptions stipulated in Paragraphs (4)-(6), economic rights cannot be assigned or waived; nor can these rights be assigned to any other person in any other manner.

(4) Economic rights can be inherited, and instructions concerning economic rights can be given in the event of death.

(5) Persons who acquire economic rights through inheritance are entitled to dispose them on behalf of one another.

(6) Economic rights can be assigned or transferred in the cases and under the conditions specified in law. The person that acquires economic rights is thereafter entitled to dispose them, unless otherwise stipulated in the contract concerning the assignment of the economic rights.

¹⁰ Established: by Section 3 of Act LXXVII of 2001. In force: as of 1. 1. 2002. Shall apply to the authorization agreements concluded subsequently.

¹¹ Amended: by Section 42 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

Chapter II

MORAL RIGHTS

Publication of Works

Section 10

- (1) Authors decide whether their works can be published.
- (2) Before a work is published, the public may only be informed of the basic content of the work with the author's consent.
- (3) Unless otherwise stipulated, the author's approval must be considered as granted on the basis of the use contract for the user to provide the public with information concerning the contents of the work in a manner that is appropriate for the purpose of use.
- (4) Works that are found after the author is dead must be considered as if the author had intended them for publication - unless the author or his/her legal successor made a statement to the contrary or if the opposite is proved otherwise.

Section 11

Authors are entitled to withdraw their permission for the publication of works; the withdrawal must be in writing and for a well-founded reason. They are also entitled to prohibit the further use of those of their works that have already been published. They are obliged, however, to compensate for any damage that has been incurred prior to the statement. This does not concern employer's right to further use of the works; nor can this, in the case of the assignment of economic rights, obstruct the person that has acquired the economic rights in his/her use of the work on the basis of the assigned economic rights.

Designation of Name

Section 12

- (1) Authors have the right to be designated as the author on their works or in publications pertaining to their works - depending on the size and nature of the publication. Authors must be designated when a part of a work is adopted, quoted, or presented. Authors are entitled to exercise their right to designate their name in an appropriate manner and depending on the nature of use.
- (2) The name of the author of the original work has to be designated on reworkings, adaptations, and translations.
- (3) Authors are also entitled to publish their works anonymously or under pseudonyms. In the case of a new, legitimate use of a work that has already been published under the author's name, the author is entitled to request that the work be used in the future without designating his/her name.
- (4) Authors are entitled to request that their authorship is not called into question.

Protection of the Unity of Works

Section 13¹²

The moral rights of an author shall be considered violated by every kind of distortion and mutilation or alteration in any manner or any form of misuse of his/her work which prejudices the integrity or reputation of the author.

Exercising Moral Rights

Section 14

(1) After the death of an author, the moral rights regulated in this Act can be exercised within the duration of copyright protection (Section 31) by whomever has been entrusted by the author to care for his/her literary, scientific, academic, or artistic estate or, in the case of the absence of such person or if the designated person fails to take action, by whomever obtained the author's economic rights under the title of inheritance.

(2)¹³ Once the duration of copyright protection has ended, the affected collective rights management organization or authors representative organization is entitled to take action (under the title of violating the memory of the author) against conduct that would offend the author's right, during the duration of copyright protection, to be designated as the author either on his/her work or in a publication pertaining to his/her work.

Section 15

Users are entitled to take action in defense of an author's specific moral rights if the author has given his/her express consent to such in the use contracts.

Chapter III

ECONOMIC RIGHTS

General Provisions Pertaining to Economic Rights

Section 16

(1)¹⁴ On the basis of copyright protection, authors have the exclusive right to utilize works in whole or any identifiable part, whether financially or non-financially, and to authorize each and every use. Unless otherwise stipulated in this Act, use permits can be obtained with use contracts.

(2) The author's permission is also necessary for using the particular title of a work.

(3) Authors are entitled to make commercial use of the typical and original characters that appear in their works. They, furthermore, hold the exclusive right to authorize such uses.

¹² Established: by Section 35 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹³ Amended: by paragraph (1) Section 43 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁴ Amended: by Section 53 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

(4) Unless otherwise stipulated in this Act, authors are entitled to remuneration in return for granting permission to use their works. Remuneration must be in proportion to the income in connection with the use, barring any agreement to the contrary. Entitled persons must make explicit statements in order to waive remuneration. If the law requires a specific form for the validity of use contracts, the statement concerning the waiver of remuneration is also valid only in the specific form.

(5) In the cases specified in the law, authors are entitled to receive remuneration for the use of their work even if they do not have the exclusive right to authorize the use. The law can exclude the right to waive such remuneration. The author is entitled to waive remuneration only with an explicit statement, even if there is no such provision.

(6) Use is construed illegitimate especially if the law or the entitled person does not grant authorization for it in a contract or if the user makes use of the work beyond the limits of its entitlement.

(7)¹⁵ Unless the law stipulates otherwise, users are obliged to notify authors or their legal successors or the collective rights management organization concerning the manner and degree of use.

Section 17

The following, in particular, are considered uses of a work.

- a) Reproduction of a work (Sections 18-19)
- b) Distribution of a work (Section 23)
- c) Public performance (Sections 24-25)
- d) Presentation to the public by broadcast or some other manner (Sections 26-27)
- e) Retransmitting broadcast works to the public through an organization other than the original (Section 28)
- f) Adaptation (Section 29)
- g) Exhibition (Section 69)

Reproduction Right

Section 18

(1) Authors have the exclusive right to reproduce their works and to authorize other persons to do so. Reproduction constitutes the following.

a) The (direct or indirect) recording of a work on any medium in any manner, whether final or temporary, and

b) The preparation of one or more copies of the recording

(2) Reproduction of works includes mechanical (print) or magnetic recording, recording on film or copying; making sound or video recordings; recording for public transmission by broadcast or cable; storing works digitally on electronic media; and producing works that have been transmitted over computer networks in a material form. In the case of architectural works, reproduction incorporates the execution of the work recorded in the plan as well as subsequent construction.

¹⁵ Amended: by paragraph (1) Section 43 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

Section 19

(1)¹⁶ Composers and lyricists shall be able to enforce their rights relating to the reproduction or distribution of copies of previously published non-theatrical compositions and lyrics, or excerpts taken from theatrical compositions on phonograms through their collective rights-management bodies only, and shall be entitled to waive their fees to the extent of the sum that is due them, and such waivers can only take effect after the date on which the fees are distributed. The authorization and the amount of the fee to be paid in exchange shall be fixed in an agreement between the collective rights-management bodies and the phonogram producers.

(2) The provision stipulated in Subsection (1) cannot be applied to adaptation rights or to exercising these rights.

Section 20

(1)¹⁷ Authors, performers, phonogram producers and filmmakers that are broadcast in the programming of radio and television organizations or included in the programming of persons that transmit their own programming to the public by cable, are entitled to receive remuneration for the copying - for private purposes - of their works, artistic performances, motion pictures or phonograms.

(2)¹⁸ The remuneration described in Subsection (1) is determined by an organization concerned with the collective management of copyrights in literary and musical works in agreement with the collective rights management organization of other entitled persons. The amount of remuneration shall be determined consistent with the effective technological measures (Section 95) employed for the protection of copyright and related rights of the works, artistic performances, motion pictures or phonograms affected. Manufacturers of blank video and audio media must pay a preemption fee to the organization that collectively manages the copyright in connection with literary or musical works within eight days of marketing or the date admission for storage for the purpose of distribution, whichever occurs earlier. In the case of foreign manufacturers, the person required by law to pay the customs duty or - if there is no customs payment obligation - the person importing the media together with the person placing it into commercial circulation for the first time must pay a preemption fee to the organization that collectively manages the copyright in connection with literary or musical works within eight days following the completion of customs formalities or the date when placed into commercial circulation or upon payment of customs if there is a customs payment obligation. Payment of royalties shall fall within the joint responsibility of all domestic distributors of the media in question.

¹⁶ Established: by Section 1 of Act CXII of 2008. In force: as of 01. 02. 2009. Shall apply to licenses granted after the time of this Act entering into force.

¹⁷ Established: by paragraph (1) Section 54 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

¹⁸ Established: by paragraph (1) Section 54 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Amended: by Section 18 of Act CLXV of 2005. In force: as of 01. 01. 2006. May be applied to proceedings started after this date.

(3) The obligation to pay preemption does not apply to the following.

a) Marketing for the purpose of export

b) Video and audio media that are used only for equipment (e. g. studio equipment, dictaphones) that is not normally used for making copies - for private purposes - of works, artistic performances, or phonograms.

(4)¹⁹ In the case of sound recordings, composers and writers are entitled to forty-five per cent of the collected fees remaining after costs have been deducted, performers are entitled to thirty per cent, and phonogram producers are entitled to twenty-five per cent, unless otherwise agreed upon by the affected collective rights management organizations by 31 March of each year.

(5) In the case of video media, producers of motion picture works are entitled to receive 13 per cent of the amount of the collected fees remaining after costs have been deducted; filmmakers are entitled to receive 22 per cent; fine artists, applied artists, and photographers are entitled to receive 4 per cent; motion picture scriptwriters are entitled to receive 16 per cent; composers and lyricists are entitled to receive 20 per cent; and performers are entitled to receive 25 per cent - unless the affected collective copyright management organizations agree otherwise before March 31 of each year.

(6) The organization that collectively manages copyright in connection with literary and musical works will transfer the part of the fees that is due to the authors, copyright owners, performers, and phonogram producers whom they do not represent with regard to the distribution of the fees to the entitled persons' collective copyright management organizations.

(7)²⁰ Entitled persons can only enforce their fee claims through their collective copyright management organizations. They are only entitled to waive their fees to the extent of the sum that is due them, and such waivers can only take effect after the date on which the fees are distributed.

Section 21

(1)²¹ The authors of works and persons that publish works that are reproduced by way of photocopying or by other similar means on paper or other similar media (hereinafter referred to collectively as "reproduction") are entitled to remuneration that are appropriate with regard to private copying. The fee must be paid by the manufacturers of reproduction equipment and, for equipment that is manufactured abroad, by the person required by law to pay the customs duty or - if there is no customs payment obligation - the person importing the equipment together with the person placing it into commercial circulation, and such fee must be paid on or before the deadline prescribed in the third sentence of Subsection (2) of Section 20. Payment of royalties shall fall within the joint responsibility of all domestic distributors of the equipment in question. Operators of reproduction equipment are obliged to pay an additional fee. Both fees must be paid to the collective copyright management organization.

¹⁹ Established: by paragraph (2) Section 54 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

²⁰ Amended: by paragraph (1) Section 43 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

²¹ Amended: by paragraph (1) Section 55 and Section 89 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Amended: by paragraph (1) Section 2 of Act CXII of 2008. In force: as of 01. 02. 2009.

(2) A separate legal regulation will specify the equipment that is used for reproduction.

(3) The fee described in Subsection (1) is to be determined by the collective copyright management organization. When determining the fee, it will be necessary to consider the manner in which the equipment is used, its output, and, in the case of operation in return for consideration, the place of operation.

(4)²² The fee referred to in Subsection (1) shall be 2 per cent of the manufacturer's price of the reproduction equipment maximum, or maximum 2 per cent of customs value if manufactured abroad.

(5)²³ The obligation to pay preemption does not extend to the marketing of equipment for the purpose of export.

(6)²⁴ Publishers are entitled to receive forty per cent of the amount of the collected fees remaining after costs have been deducted. Authors of academic and scientific publications are entitled to twenty-five of the remaining sixty per cent, while authors of other literary works are entitled to twenty-five per cent, fine artists and photographers are entitled to ten per cent. Payments are to be made to the collective rights management organization of the entitled persons according to the applicable percentage points.

(7)²⁵ The distribution ratios specified in Subsection (6) have to be applied unless the affected collective copyright management organizations or representative organizations agree otherwise before March 31 of each year.

(8)²⁶ Authors and publishers are entitled to enforce their fee claims only through their collective copyright management organizations. They are only entitled to waive their fees to the extent of the sum that is due them, and such waivers can only take effect after the date on which the fees are distributed.

Section 22

(1)²⁷ Persons engaged in the manufacture of the blank video and audio media referred to in Section 20 or the equipment specified in Section 21, persons importing such media free of

²² Enacted: by Section 52 of Act XXVI of 2005. In force: as of 10. 05. 2005.

²³ Numbering amended: by Section 52 of Act XXVI of 2005. In force: as of 10. 05. 2005.

²⁴ Established: by paragraph (2) Section 55 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Numbering amended: by Section 52 of Act XXVI of 2005. In force: as of 10. 05. 2005. Amended: by paragraph (2) Section 2 of Act CXII of 2008. In force: as of 01. 02. 2009.

²⁵ Numbering amended: by Section 52 of Act XXVI of 2005. In force: as of 10. 05. 2005. Amended: by subparagraph a) paragraph (1) Section 29 of Act CXII of 2008. In force: as of 01. 02. 2009.

²⁶ Established: by paragraph (3) Section 55 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Numbering amended: by Section 52 of Act XXVI of 2005. In force: as of 10. 05. 2005.

²⁷ Amended: by Section 56 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Amended:

customs duties or the persons placing them into commercial circulation for the first time, as well as persons required by law to pay the customs duty for importing such video and audio media or equipment are obliged to notify the collective copyright management organization concerning the volume that is marketed or imported as well as the type of the video and audio media or equipment before the tenth day of each calendar month or within the payment deadline prescribed in Subsection (2) of Section 20 at the latest. The collective copyright management organization is entitled to request additional information concerning marketing figures and purchasing sources. The collective copyright management organization is, furthermore, entitled to request the operators of reproduction equipment to provide the necessary information for determining the appropriate fee.

(2) In the case of failure to comply - even partially - with the obligation to provide information and disclose data as regulated in Subsection (1), a flat charge must be paid in order to cover the extra expenses of the collective copyright management organization in addition to the fee that is otherwise due. The amount of the flat charge is the same as the fee that is payable.

Distribution Right

Section 23

(1) Authors have the exclusive right to distribute their works and to authorize other persons to do so. Making the original copy or reproduced copies of works accessible to the public by marketing or with an offer for marketing is considered as distribution.

(2)²⁸ Distribution entails, in particular, the assignment of ownership of copies of works, the leasing of copies of works, and the importation of copies of works into the country for the purpose of marketing. Keeping any illegal copies of works in possession for commercial purposes shall also constitute infringement of distribution rights if the possessor knows or, with the due care expected in the given situation, has reasonable grounds to know that they were produced unlawfully.

(3)²⁹ Distribution right shall also apply to lending copies of the works to the public. Authors of works embodied in phonograms shall exercise these rights in accordance with Subsection (2) of Section 78. Furthermore, authors of cinematographic works shall also be able to exercise these rights only through collective right management, they shall be entitled to waive their fees to the extent of the sum that is due them, and such waivers can only take effect after the date on which the fees are distributed.

(4) In architecture, applied art, and industrial design, the right to distribute by renting only pertains to plans and designs.

by Section 19 of Act CLXV of 2005. In force: as of 01. 01. 2006. May be applied to proceedings started after this date.

²⁸ Amended: by paragraph (1) Section 57 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

²⁹ Established: by Section 3 of Act CXII of 2008. In force: as of 01. 02. 2009.

(5)³⁰ If an entitled person or other duly authorized person places copies of works into circulation in the territory of the European Economic Area by selling them or in any manner transferring ownership of them, the distribution right - with the exception of renting, lending, and import rights - can no longer be exercised with regard to the copies of works thus placed on the market.

(6)³¹ If authors assign their leasing right pertaining to works that are included in motion picture works or phonograms to the producers of the phonograms or motion picture works or if authors authorize the producers in another manner to exercise this right, the authors continue to be entitled to request an appropriate fee from the producers of the phonograms or motion picture works in return for the distribution of the works through leasing. Although the authors are not entitled to waive this fee, the authors can enforce their fee claims only by means of a collective copyright management organization.

(7)³²

Section 23/A³³

(1) In connection with literary works and composers of musical works, if printed in sheet music, distributed through libraries by way of public lending, the authors and composers of such works shall be entitled to equitable remuneration having regard to lending.

(2) The fee shall be determined by the competent collective rights-management body and published in the annual royalty statement, not to exceed the sum specified in a special legislation section under the budgetary chapter controlled by the minister in charge of cultural affairs (for the purposes of this Section hereinafter referred to as “minister”).

(3) Authors shall be entitled to enforce their claims for remuneration only through their collective rights-management body, and they shall be entitled to waive their fees to the extent of the sum that is due them, and such waivers can only take effect after the date on which the fees are distributed.

(4) Libraries shall supply the identification data of the copies of the works referred to in Subsection (1) to the extent necessary for determining the amount of fee and for the distribution of such fee, and information as to the count of lending to the relevant collective rights-management bodies and to the minister each year, by the end of the first calendar quarter of the following year. The type of data required for the calculation and distribution of the fee, and the libraries which are required to comply shall be laid down in specific other legislation.

(5)³⁴ The fee shall be distributed according to the count of lending, and shall be payable on 1 November of the calendar year following the year to which it pertains.

³⁰ Established: by paragraph (1) Section 7 of Act LXIX of 2004. In force: as of 10. 07. 2004.

³¹ Amended: by paragraph (1) Section 43 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

³² Repealed: by paragraph (2) Section 30 of Act CXII of 2008. No longer In force: as of 01. 02. 2009.

³³ Enacted: by Section 4 of Act CXII of 2008. In force: as of 01. 02. 2009. Shall be payable in connection with the public lending of works after 31 December 2010. The type of data required for the calculation and distribution of the fee shall be collected as of 1 January 2011, and the fee shall be distributed based on such data in 2012 for the first time.

Public Performing Rights

Section 24

(1) Authors have the exclusive right to perform their works publicly and to authorize other persons to do so. Performance constitutes making the works perceptible to those who are present.

(2) Performance entails the following, in particular.

a) The performance of a work by means of a live performance before an audience, such as stage performances, concerts, recitations, and readings (hereinafter referred to as „live performances”);

b) Making works perceptible by any technical means or method, such as projecting motion picture works, amplifying the sound of works that are broadcast or distributed (on a particular copy) to the audience, and projecting them on screens.

(3)³⁵ Performances that take place in locations that are accessible to the public or in any places where people other than the user’s family, friends, and acquaintances have gathered are considered to be public performances.

Section 25

(1)³⁶ Authorization for the public performance of previously published musical or literary works and the amount of the fee to be paid for these uses shall be fixed in an agreement between the user and the collective copyright management organization representing the writers, composers, scriptwriters, and lyricists concerned unless the rightholder has made a statement governed under Subsection (3) of Section 87.

(2)³⁷

(3)³⁸ The provisions contained in Subsection (1) cannot be applied to the scenes or sections of literary works and dramatico-musicals intended for stage, nor to technical literature or bibliography, and works of broader scope that are not intended for the stage (e.g., novels).

³⁴ Established: by Section 5 of Act CXCVI of 2012. In force: as of 1. 01. 2013.

³⁵ Established: by Section 20 of Act CLXV of 2005. In force: as of 01. 01. 2006. May be applied to proceedings started after this date.

³⁶ Established: by paragraph (1) Section 58 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Amended: by Section 42 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

³⁷ Repealed: by Section 89 of Act CII of 2003. No longer in force: simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union enters into force.

³⁸ Established: by paragraph (2) Section 58 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

(4)³⁹ Users must report, in advance, planned uses and uses that have already begun in the cases that are regulated in Subsection (1). The collective copyright management organization mentioned in Subsection (1) is entitled to inspect the use on location.

(5) The royalties for performing right for live performances - with the exception of royalties for music services in the hospitality industry - must be paid within three days of the performance. In other cases, the right of use has to be obtained in advance for at least a quarter of a year - or for the full period of operation in the case of shorter, seasonal operation - by paying preemption.

(6) If users do not comply with the reporting obligation that is regulated in Subsection (4) and, as a consequence, the collective copyright management organization gains knowledge of the use only in the course of inspection, a flat charge must be paid in order to cover the cost of inspection incurred by the collective copyright management organization in addition to the fee that is otherwise due. The amount of the flat charge is the same as the fee that is payable.

Right to Disseminate Works to the Public

Section 26

(1) Authors have the exclusive right to disseminate their works to the public by means of broadcasting and to authorize other persons to do so. Broadcasting constitutes making works perceptible to people at a distance by transmitting sounds, images and sounds, or their technical manifestation implemented without cable or other similar means.

(2)⁴⁰ Satellite broadcasting is also considered as broadcasting a work if the broadcast program can be directly received by the public. Programming that is broadcast by satellite is considered as programming that can be directly received by the public if the program signals are transmitted to the satellite under the responsibility and control of a radio or television organization and then transmitted without interruption back to earth for public reception. The act of communication to the public by satellite shall occur solely in the Member State of the European Economic Area where, under the control and responsibility of the broadcasting organization, the program-carrying signals are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth. Where, for the purposes of the previous provision, an act of communication to the public by satellite occurs in a State that is not a party to the Agreement on the European Economic Area, the provisions contained in Article 1 (2) *d*) of Council Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission shall apply.

(3)⁴¹ Broadcasting also includes coded broadcasting that can be directly received by the public only after the program signals have been so enabled on the basis of an agreement signed with the original radio or television organization by means of a device (decoder) obtained from it or, with its approval, from others. The original radio or television organization and the organization that uses the decoder and transmits to the public shall be jointly and severally liable for such uses.

³⁹ Amended: by Section 89 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁴⁰ Established: by paragraph (2) Section 7 of Act LXIX of 2004. In force: as of 10. 07. 2004.

⁴¹ Established: by Section 29 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

(4) Broadcasting works also includes those situations in which the signals of the broadcast program are coded by an organization that transmits to the public and the members of the public are, on the basis of separate agreements with this organization, only able to perceive the works with the decoders obtained from the organization or from elsewhere with the organization's approval.

(5) Broadcasting is coded whenever the program signals are altered in any manner in order to limit access to a smaller section of the public.

(6) The special permission of the author is required for recordings that make repeated broadcasting possible. Fees have to be paid for each and every use of a recording.

(7) The provisions pertaining to broadcasting must be applied appropriately to the transmission of own programming to the public by cable or other similar means or in another similar manner.

(8) Authors also have the exclusive right to transmit their works to the public in manners other than broadcasting or those specified in Subsection (7), and they also have the exclusive right to authorize other persons to do so. This right extends, in particular, to the case in which works are made accessible to the public by cable or by any other means or in any other manner in a way in which the members of the public can determine individually the time and place of access.

Section 27⁴²

(1) Authorization for broadcasting previously published musical or literary works, with the exception of the use of literary works and dramatico-musical works intended for stage or scenes and segments from them, and technical literature or bibliography, and works of broader scope that are not intended for stage (e.g., novels), and the amount of the fee to be paid for these uses shall be fixed in an agreement between the user and the collective copyright management organization representing the writers, composers, scriptwriters, and lyricists concerned.

(2) If broadcast takes place via satellite, Subsection (1) shall apply if

a) the communication to the public simulcasts a terrestrial broadcast by the same radio or television organization, and

b)⁴³ the rightholder did not make the statement under Subsection (3) of Section 87.

(3)⁴⁴ Authorization for the use of previously published non-theatrical musical works and their lyrics, other than dramatico-musical works or scenes and segments from them, and scenes from such theatrical musical works - where such use is governed under Section 26 and is not mentioned in Subsections (1) and (2) above - and the amount of the fee to be paid for these uses shall be fixed in an agreement between the user and the collective copyright management organization representing the composers and lyricists concerned unless the rightholder has made a statement governed under Subsection (3) of Section 87.

Section 28

⁴² Established: by Section 60 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁴³ Amended: by Section 42 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

⁴⁴ Amended: by Section 42 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

(1) Authors have the exclusive right to retransmit (by way of broadcasting) those of their works that have been transmitted to the public by broadcasting as well as the exclusive right to authorize other persons to do so.

(2)⁴⁵ The rightholder shall also have the exclusive right to authorize simultaneous, unaltered and unabridged retransmission by cable or other means for reception by the public of an initial transmission (with the involvement of an organization other than the original) by wire or other means of television or radio programs intended for reception by the public.

(3)⁴⁶ Rightholders can only enforce their rights referred to in Subsection (2) through collective copyright management. They are only entitled to waive their fees to the extent of the amount that is due to them, and such waivers can only take effect after the date on which the fees are distributed. The fees are determined by the organization concerned with the collective management of copyrights in literary and musical works in accord with the collective rights management organizations of other rightholders. The transmitting organization shall pay the fee as charged to the organization concerned with the collective management of literary and musical copyrights.

(4)⁴⁷ Producers of motion picture works are entitled to receive thirteen per cent of the amount of the collected fees remaining after costs have been deducted; filmmakers are entitled to receive nineteen per cent; fine artists, applied artists, and photographers are entitled to receive three per cent; motion picture scriptwriters are entitled to receive fourteen per cent; composers and lyricists are entitled to receive fifteen and a half per cent; performers are entitled to receive twenty-six and a half per cent; and phonogram producers are entitled to receive nine per cent - unless the affected collective copyright management organizations agree otherwise before 31 March of each year.

(5)⁴⁸ The organization concerned with the collective management of copyrights in literary or musical works will transfer the part of the fees that is due to the authors and copyright owners of types of works that they do not represent with regard to the distribution of the fees and the part of the fees due to performers and phonogram producers to the rightholders' collective copyright management organizations.

(6)⁴⁹ The fees paid for the retransmission of works that are broadcast in the programming of Hungarian public media service providers (radio or television organizations) or are transmitted by cable or some other manner must be paid from the Médiaszolgáltatás-támogató és Vagyonkezelő Alap (*Media Service Support and Asset Management Fund*), and it shall be provided for by the administrator of the Fund.

⁴⁵ Established: by Section 61 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁴⁶ Established: by Section 61 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁴⁷ Established: by Section 61 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁴⁸ Established: by Section 61 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁴⁹ Established: by paragraph (11) Section 227 of Act CLXXXV of 2010. In force: as of 1. 01. 2011.

Adaptation Rights

Section 29

Authors have the exclusive right to adapt their works and to authorize other persons to do so. Adaptation constitutes the translation, stage or musical adaptation, and motion picture adaptation of a work; as well as the adaptation of motion picture works and any kind of alteration of a work as a result of which a work that is different from the original is created.

Works Made for Hire

Section 30

(1) In the absence of any agreement to the contrary, the employer, as the legal successor to the author, obtains economic rights once a work is handed over if the preparation of the work was the author's obligation within the scope of his/her employment.

(2) In the case of legal succession in the person of the employer, the economic rights obtained on the basis of the provision stipulated in Subsection (1) are transferred to the employer's legal successor.

(3) Authors are entitled to appropriate remuneration if the employer authorizes a third person to use the work or assigns the economic rights in connection with the work to a third person.

(4) Authors are entitled to receive the remuneration that they are due after the assignment of use rights pursuant to this Act, even in the event of the employer acquisition of the right.

(5)⁵⁰ If the preparation of a work is the author's obligation within the scope of his/her employment, the delivery of the work is considered as approval for publication. If the author issues a statement withdrawing the work (Section 11), the employer is obliged to delete the author's name from the work. At the same time, the author's name must be deleted if the employer alters the work by taking advantage of its rights as employer and the author does not agree with the changes.

(6) The legal statements made by authors in connection with works made for hire that are created as a result of the author's obligations within the scope of his/her employment must be put into writing.

(7) The provisions pertaining to works made for hire created as a result of the author's obligations within the scope of his/her employment must be appropriately applied if the works were created by public service employees or public employees; professional soldiers or professional law enforcement officers on active duty; or the employed members of cooperatives.

Duration of Copyright Protection

Section 31

(1) Copyright is protected during the author's lifetime and for seventy years after his/her death.

⁵⁰ Amended: by Section 89 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

(2)⁵¹ The seventy-year term of protection shall be calculated from the first day of the year following the author's death, or, in the case of a work of joint authorship, from the first day of the year following the death of the last surviving author.

(3) If the identity of the author cannot be determined, the duration of copyright protection is seventy years calculated from the first day of the year following the year in which the work was first made public. If, however, the author identifies himself/herself during this period, the duration of copyright protection has to be calculated in accordance with Subsection (2).

(4) In the case of works that are published in several parts, the year of first publication has to be considered for each part individually.

(5) The duration of copyright protection of a jointly created work is seventy years calculated from the first day of the year following the first publication of the work.

(6)⁵² The term of protection of cinematographic works shall be calculated from the first day of the year following the death of the last of the following persons to survive, whether or not these persons are designated as co-authors: the director, the author of the screenplay, the author of the dialogue and the composer of music specifically created for use in the cinematographic work.

(7) If the duration of copyright protection does not have to be calculated from the first day of the year following the death of the author or the joint author who dies last and the work is not published within seventy years of the first day of the year following its creation, the work cannot receive copyright protection thereafter.

Section 32

Whoever legally publishes a previously unpublished work after the expiration of the duration of copyright protection or the period specified in Subsection (7) of Section 31 is entitled to legal protection to the extent of the author's economic rights. The term of this protection is twenty-five years calculated from the first day of the year following the first publication.

Chapter IV

FREE USE AND OTHER COPYRIGHT LIMITATIONS

General Provisions

Section 33

(1) Works that fall within the framework of free use can be used without remuneration, and the author's authorization is not necessary for the use. Only works that have been made public can be used freely in accordance with the provisions of this Act.

(2) Use is allowed and can be done without remuneration even on the basis of the provisions pertaining to free use only to the extent that it is not injurious to the regular use of the works and it does not damage the author's legitimate interests without justification. Furthermore, use is

⁵¹ Established: by paragraph (1) Section 36 of Act XVI of 2013. In force: as of 1. 11. 2013.

⁵² Established: by paragraph (2) Section 36 of Act XVI of 2013. In force: as of 1. 11. 2013.

allowed and can occur without remuneration if it fulfills the requirements of decency and its goal is not inconsistent with the purpose of free use.

(3) The provisions pertaining to free use cannot be interpreted inclusively.

(4) In applying the provisions of this Chapter, use is for the purpose of academic education if it is implemented in accordance with the curriculum or instructional requirements of kindergarten, elementary school, high school, vocational high school, technical school, elementary art school, or upper level education occurring within the scope of the Higher Education Act.

Cases of Free Use

Section 34

(1) Anyone is entitled to quote parts of works - to the extent warranted by the character and purpose of the recipient work - by designating the source and the author specified therein.

(2)⁵³ Parts of literary or musical works, and films that have been made public or small independent works of such nature, as well as pictures of works of fine art, architectural works, works of applied art and designs, and photographic works can be used for illustration for teaching in educational institutions and for the purpose of scientific research by designating the source and the author specified therein and to the extent justified, on condition that the resulting work is not utilized commercially. Any use of a work in another work to a degree that exceeds quotation or citation constitutes borrowing.

(3)⁵⁴ The author's authorization is not necessary for the non-commercial reproduction and publication of the recipient work mentioned in Subsection (2) if the recipient work is declared a textbook or reference book pursuant to the relevant laws and the academic purpose is designated on the title page.

(4)⁵⁵ Works may be adapted for illustration for teaching to be used in schools. Adaptations shall be subject to authorization by the author of the original work.

Section 35

(1)⁵⁶ Any natural person is entitled to make copies of works for private purposes if such activity does not serve to generate or increase income in any way or form. This provision does not apply to architectural works, technical structures, software, computer-operated data banks, and the recording of public performances of works on video or audio media. Sheet music may not be reproduced by means of reproduction [Subsection (1) of Section 21] for private purposes even in the cases described in Paragraphs *b)-d)* of Subsection (4) below.

⁵³ Established: by paragraph (1) Section 5 of Act CXII of 2008. In force: as of 01. 02. 2009.

⁵⁴ Established: by Section 62 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁵⁵ Enacted: by paragraph (2) Section 5 of Act CXII of 2008. In force: as of 01. 02. 2009.

⁵⁶ Established: by paragraph (1) Section 63 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

(2) Complete books and periodicals or dailies may be copied only by hand or typewriter, even for private purposes.

(3)⁵⁷ Having another person make copies of works by computer or on electronic data media is not considered free use, regardless of whether or not it is done for private purposes.

(4)⁵⁸ Copies can be made by public libraries and by educational establishments [Subsection (4) of Section 33], museums, archives, picture and sound recordings held in public collections if such activity does not serve the purposes of gainful activities or to generate or increase income in any way or form and:

a) if the copy is necessary for academic or scientific research;

b) if the copy is made for the purposes of a public library or for use as specified in Subsection (5) of Section 38;

c) if the copy is made from a smaller part of a work that has already been published or a newspaper or periodical article for internal purposes; or

d) if it is allowed under specific other legislation in justified cases subject to specific conditions.

(5) Parts of works that have been published as books and newspaper and periodical Sections can be reproduced for educational purposes with a number of copies that corresponds to the number of students in the class or for high school, college, or university examinations.

(6)⁵⁹ The temporary (auxiliary or interim) reproduction of a work is considered free use, provided that the temporary reproduction is an inalienable part of a technical process designed for such use and has no economic significance of its own if the sole purpose is to permit

a) transmission between others over the network of a service provider or

b) use of the work with the rightholder's consent or under the provisions of this Act.

(7)⁶⁰ Free use constitutes temporary recordings made by radio or television organizations of works that may be legally used for the broadcast of their own programming. Unless otherwise provided for in the contract granting broadcasting rights, the recording must be destroyed or erased within three months from the date it was made. However, of these recordings, the ones - specified in specific other legislation - with extraordinary documentary value may be kept in public archives of pictures and sound recordings for any length of time.

(8)⁶¹ The instances of free use governed under Subsections (1), (4), (5) and (7) shall have no impact on the application of the provisions contained in Sections 20-22.

⁵⁷ Established: by paragraph (2) Section 63 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁵⁸ Established: by Section 6 of Act CXII of 2008. In force: as of 01. 02. 2009.

⁵⁹ Established: by paragraph (3) Section 63 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁶⁰ Enacted: by paragraph (4) Section 63 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁶¹ Enacted: by paragraph (4) Section 63 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

Section 36

(1)⁶² Sections of public lectures and other similar works as well as political speeches may be used freely for information services to the extent justified for the purpose. In such cases, the source and the name of the author must be indicated unless it proves to be impossible. The author's consent is required for the publication of collections of such works.

(2)⁶³ Articles on daily events and on current economic or political issues and works broadcast on these subjects may be freely quoted in the press and communicated to the public - including making them accessible to the general public [Subsection (8) of Section 26] - provided that the author has not expressly prohibited such use. In such cases, the source and the name of the author must be indicated.

(3)⁶⁴ Any kind of work of fine art, photography, architecture, applied art, or industrial design can be used as scenery or stage properties in audiovisual media services. Designating the author's name is not compulsory in the case of such use.

(4)⁶⁵ The authorization of the author and the designation of the author's name are necessary in order to use works that are made for the purpose of scenery or costume in audiovisual media services.

(5)⁶⁶ In the case of public exhibition or sale of original works of art for valuable consideration with the involvement of an art dealer, the works of art in question may be freely reproduced and distributed for the purpose of advertising the public exhibition or sale of artistic works, to the extent necessary to promote the event, if such activity does not serve the purpose of generating or increasing income in any way or form. Subsections (2) and (3) of Section 70 shall apply to the definition of original works of art and art dealers.

Section 37⁶⁷

⁶² Established: by paragraph (1) Section 64 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁶³ Enacted: by paragraph (2) Section 64 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁶⁴ Numbering amended: by paragraph (2) Section 64 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Amended: by point 2 paragraph (5) Section 226 of Act CLXXXV of 2010. In force: as of 1. 01. 2011.

⁶⁵ Numbering amended: by paragraph (2) Section 64 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Amended: by point 2 paragraph (5) Section 226 of Act CLXXXV of 2010. In force: as of 1. 01. 2011.

⁶⁶ Enacted: by Section 30 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

⁶⁷ Established: by Section 65 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

Reports of current events, to the extent justified by the informatory purpose may be used freely as long as the source, including the author's name, is indicated unless this turns out to be impossible.

Section 38

(1) If a performance is not intended to generate or increase income even indirectly and the participants do not receive remuneration, works can be performed in the following instances.

a) In the case of dramatic works performed by amateur artistic groups on the basis of published scripts or legally used manuscripts, provided that this does not violate any international treaties

b) For educational purposes and at school celebrations

c) Within the framework of social care and care for the elderly

*d)*⁶⁸

*e)*⁶⁹ At the religious ceremonies of religious communities and at church festivities.

f) For private use and at occasional private events.

(1a)⁷⁰ If a performance is not intended to generate or increase income even indirectly, works can be performed during celebrations held on national holidays.

(2) Use is intended to increase income if it is suitable for the user (e. g. store, entertainment establishment) to increase the number of people frequenting it or if it is used for entertaining guests or other customers visiting the establishment. The collection of an entry charge is considered, in particular, as income generation even if it occurs under a different name. Compensation that is in excess of the actual and warranted costs incurred in connection with performances is considered as remuneration.

(3)⁷¹

(4) Functions held by economic organizations or de facto economic organization exclusively for their members, officials, and employees are considered as private.

(5)⁷² In the absence of an agreement for use to the contrary, works from the collections of publicly accessible libraries, educational establishments [Subsection (4) of Section 33], museums, public archives of documents, pictures and sound recordings held in public collections may be displayed on the screens of computer terminals installed and operated in such institutions for members of the general public for scientific research or for learning and may be freely communicated for such purpose to the said members of the general public in the manner and under the conditions stipulated in specific other legislation, including when they are made accessible to the general public, on condition that such use does not serve to generate or increase income in any way or form.

⁶⁸ Repealed: by subparagraph a) Section 27 of Act CLIX of 2013. No longer in force: as of 25. 10. 2013.

⁶⁹ Established: by Section 85 of Act CXXXIII of 2013. In force: as of 1. 08. 2013.

⁷⁰ Enacted: by Section 15 of Act CLIX of 2013. In force: as of 25. 10. 2013.

⁷¹ Repealed: by paragraph (2) Section 43 of Act CLXXIII of 2011. No longer in force: as of 1. 01. 2012.

⁷² Enacted: by Section 66 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Amended: by subparagraph b) paragraph (1) Section 29 of Act CXII of 2008. In force: as of 01. 02. 2009.

Section 39⁷³

National libraries are entitled to lend copies of works without restriction. This provision shall not apply to software and computer-operated databases.

Section 40⁷⁴

Copies reproduced within the framework of free use - with the exception of interlibrary exchange and excluding Subsection (5) of Section 36 - cannot be distributed without the author's authorization.

Section 41

(1)⁷⁵ The non-commercial use of works falls within the scope of free use if it is done exclusively to fulfill the needs of handicapped or disabled persons as directly related to their particular handicap and only to the extent that suits such purpose.

(2)⁷⁶ Works can be used in court, administrative, and other official proceedings for the purpose of giving evidence in a manner and to the degree appropriate for the purpose.

Chapter V

USE CONTRACTS

General Provisions for Use Contracts

Section 42

(1) Authors grant licenses for the use of their works on the basis of use contracts, and the users are obliged to pay remuneration in return.

(2) The parties may freely determine the contents of use contracts. The parties may, by mutual consent, deviate from the provisions pertaining to use contracts, unless prohibited by this or another law.

(3) If the contents of a use contract cannot be clearly interpreted, the interpretation that is most favorable for the author must be accepted.

Section 43

⁷³ Established: by Section 7 of Act CXII of 2008. In force: as of 01. 02. 2009.

⁷⁴ Established: by Section 31 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

⁷⁵ Established: by Section 68 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

⁷⁶ Amended: by Section 207 of Act LVI of 2009. In force: as of 1. 10. 2009. The change does not effect the English version.

(1) Use contracts grant exclusive rights only if it is expressly stated. Only the licensee is entitled to use the work on the basis of a license for exclusive use. The author is not entitled to grant additional use rights, and even he himself retains the right to use his work only if it is stipulated in the contract.

(2) Licenses for nonexclusive use that have been given prior to the conclusion of a contract containing a license for exclusive use will remain valid unless otherwise stipulated in the contract concluded between the author and licensee.

(3) A license to use a work can be limited to a specific area, duration, manner of use, and extent of use.

(4)⁷⁷ In the absence of legal or contractual provisions to the contrary, a license to use a work includes the territory of Hungary and its duration will be based on the customary duration in contracts concluded for the use of works similar to the work forming the object of the contract.

(5) Should the contract fail to indicate the means of use to which a license pertains or the licensed extent of use, the license will be limited to the means and extent of use that are indispensably necessary for implementing the purpose of the contract.

Section 44

(1) A use contract in which an author grants a license for the use of an indefinite number of future works is null and void.

(2) No license can be validly granted for a means of use that is unknown at the time a contract is concluded. However, a method of use that comes into being after a contract is concluded is not to be considered a means of use that is unknown at the time the contract was concluded if it merely makes it possible to implement previously known means of use more efficiently, under more favorable conditions, or with better quality.

Section 45

(1) Unless otherwise provided by this Act, use contracts shall be put in writing.

(2) It is not obligatory to put a contract in writing if it is to be published in a daily newspaper or periodical.

(3)⁷⁸ Where works are transmitted to the public by the author himself by way of the means specified in Subsection (8) of Section 26, the use contract shall be considered to have been made in writing if the author has granted additional use rights for the works in question in a contract negotiated and executed by way of electronic means.

Section 46

(1) Users may only transfer a license or grant a further license to third persons to use a work with the express authorization of the author.

⁷⁷ Amended: by Section 42 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

⁷⁸ Enacted: by Section 21 of Act CLXV of 2005. In force: as of 01. 01. 2006. May be applied to proceedings started after this date.

(2) A license to use a work shall be transferred, without the author's authorization, to a legal successor if the user economic organization is terminated or if the concerned organizational unit is separated from the company.

(3) If a user transfers its rights or grants a secondary license without the author's authorization or if the license to use a work is transferred without the author's authorization, the user and the licensee shall be jointly responsible for performing the use contract.

Section 47

(1) A license to use a work includes the adaptation of a work only if it is expressly stipulated.

(2) A license to reproduce a work permits the user to fix the work in a video or phonogram or copy it by way of computer or onto electronic data media only if it is expressly stipulated.

(3) A license to distribute a work shall permit the user to import copies of the work in order to distribute or market them only if it is expressly stipulated.

(4) A license to reproduce a work shall, in case of doubt, include distribution of the reproduced copies of the work. This does not pertain to the importation of copies of the work into the country in order to distribute or market them.

Section 48

According to the general rule of civil law, courts are entitled to amend use contracts even if such action infringes an author's substantive lawful interest in a proportionate share of the income from use because, subsequent to the conclusion of the contract, the value differential between the parties' services becomes conspicuously great owing to a significant increase in the demands attendant upon the use of the work.

Section 49

(1) Pursuant to contracts for works to be created in the future, users are obliged, within two months of the delivery of a work, to make a statement concerning acceptance of the delivered work. If a user returns a work to the author for corrections or revisions, the period is to be calculated as of the date on which the revised or corrected work is delivered. If the user makes no statement within the period available to him for that purpose, the work shall be considered as accepted.

(2) If a contract is concluded for a work to be created in the future, the user is entitled, if there is justification, to return the finished work to the author (and set an appropriate deadline) for revisions or corrections.

(3) If the author refuses to make revisions or corrections without good cause for doing so or if he fails to make the revisions or corrections by the deadline that has been set, the user may rescind the contract without payment.

(4) If a work proves unsuitable for use even after revision, the author is only due reduced remuneration.

Section 50

If an author licenses the use of his work, he is obliged to make any nonessential changes that are clearly necessary and indispensable for using the work. Should he refuse or be unable to meet this obligation, the user is entitled to make the changes without the author's authorization.

Section 51

- (1) An author may abrogate a contract containing a license of exclusive use
 - a) if the user fails to commence the use of the work within the period determined in the contract or a period that can reasonably be expected in the given situation; or
 - b) if the user exercises the rights he has acquired through the contract in a manner that is obviously inappropriate for achieving the goals of the contract or in a manner that is inconsistent with the intended purpose.
- (2) If a use contract is concluded with an indefinite term or for a period of more than five years, the author is not entitled to exercise the right of abrogation referred to in Subsection (1) until two years after the date on which the contract was concluded.
- (3) An author is only entitled to exercise his right of abrogation after he has set a convenient deadline for the user for performance of the terms and conditions of the contract and the deadline has expired without result.
- (4) Authors are not entitled to waive the right of abrogation described in Subsection (1) in advance. This practice can only be excluded by contract for a period of no more than five years following conclusion of the contract or delivery of the work (if delivery occurs after the contract is concluded).
- (5) Instead of abrogation, an author may terminate the exclusivity of a license while proportionally reducing the remuneration to be paid to him for use.

Section 52

- (1) If a use contract for works to be created in the future is concluded in such a manner that the future works are designated only by genre or type, either party may abrogate the contract with a six months' notice after the lapse of five years and every five years thereafter.
- (2) Authors may not waive the right of abrogation described in Subsection (1) in advance.

Section 53

- (1) An author may abrogate a use contract for good cause if he revokes the license to communicate his work to the public or if he forbids the further use of a work that has already been communicated to the public.
- (2) Exercising the right of abrogation is contingent upon the author providing collateral security to compensate for any damage that might have occurred prior to the time at which the statement was made.
- (3) If, following abrogation of a use contract on the grounds stipulated in Subsection (1), an author again wishes to authorize communication of his work to the public or continued use of the work, the previous user shall have the right of preemption.
- (4) The rules governing the right of first refusal regarding purchases shall apply to the right of preemption.

Section 54

Use contracts cease to have effect when the time specified therein lapses, when the circumstances referred to in the contract occur, or when the duration of copyright protection expires.

Section 55⁷⁹

(1) The provisions relating to contractual licenses shall also apply to contracts for the transfer of authors' economic rights and - subject to the exceptions set out in Subsections (2)-(3) - to contractual licenses relating to the rights of performers and to the transfer of the economic rights of performers.

(2) If, fifty years after the phonogram was lawfully published or, failing such publication, fifty years after it was lawfully communicated to the public, the phonogram producer - or another person by authorization from such phonogram producer - does not offer copies of the phonogram for sale in sufficient quantity or does not make it available to the public, by wire or wireless means, in such a way that members of the public may access it from a place and at a time individually chosen by them, the performer may terminate the contract by which the performer has transferred or assigned his rights in the fixation of his performance to a phonogram producer.

(3) The right to terminate the contract mentioned in Subsection (2) may be exercised if the producer, within a year from the notification by the performer of his intention to terminate the contract, fails to carry out both of the acts of exploitation referred to in Subsection (2).

(4) The right to terminate under Subsection (2) may not be waived by the performer.

Publication Contract

Section 56

(1) Under a publication contract, an author shall be obliged to make his work available to a publisher, and the publisher shall be entitled to publish and market it, and the publisher shall be obliged to pay remuneration to the author.

(2) The right of publication pertains, in the case of any doubt, to the publication of the work in the Hungarian language. The right of publication exercised under contract is exclusive, except in the case of works made for collections, daily newspapers, and periodicals.

Section 57

(1) The author's authorization is required in order to include pictures in the publication of a literary work.

(2) In case the author has authorized the inclusion of pictures (illustrations) in the publication of his work, he may refuse to give his authorization for the use of specific pictures only for good cause.

Licensing Use in Connection with Works of Unknown Authors or Authors Whose Whereabouts are Unknown (Orphan Work)⁸⁰

Section 57/A⁸¹

⁷⁹ Established: by Section 37 of Act XVI of 2013. In force: as of 1. 11. 2013.

⁸⁰ Enacted: by Section 8 of Act CXII of 2008. In force: as of 01. 02. 2009.

(1)⁸² The Szellemi Tulajdon Nemzeti Hivatala (Hungarian Intellectual Property Office) (hereinafter referred to as “Office”) shall grant a license of use - and shall establish reasonable remuneration consistent with the manner and degree of use - upon request to a person who has taken measures - with a view to making licensing arrangements - to the extent deemed reasonable under the given circumstances, taking into account the types of works and the forms of exploitation, to locate the author, however, he was unable to locate the author in question. The license shall be granted for a maximum term of five years, it applies throughout the territory of Hungary, it is non-exclusive, cannot be transferred, and it carries no right to grant additional use rights nor for adaptation of the works in question (Section 29).

(2)⁸³ The fee mentioned in Subsection (1) shall be payable after the author or his whereabouts have become known, if such use does not serve the purposes of gainful activities or to generate or increase income in any way or form; if the use serve the purposes of gainful activities or to generate or increase income in any way or form, the fee shall be deposited with the Office. The fee must be deposited before the commencement of use.

(3)⁸⁴ If the author or his whereabouts have become known during the life of the contractual license, the Office shall revoke the license - upon the author’s or the user’s request - effective as of the day when the author or his whereabouts have become known, with the proviso that use may be continued up to the extent existing on the day when the author or his whereabouts have become known, for the period remaining from the contractual term, not to exceed one year from the day when the author or his whereabouts have become known.

(4) The provisions contained in Subsection (3) shall also apply where serious and effective preparations have been made by the day when the author or his whereabouts have become known, in which case, however, the use may have commenced and carried on to the extent of the preparation that exists on the day when the author or his whereabouts have become known.

(5)⁸⁵ The author shall have the right to demand payment of his remuneration from the user for a period of five years from the time of termination or the operative date of the resolution on the withdrawal of the contractual license, or from the Office if it has been deposited. After the expiry of the five-year period, the Office shall transfer the fee to the collective rights-management body that manages the other rights related to the work of the unknown author or the author whose whereabouts is unknown, or if there is no such body, to the Nemzeti Kulturális Alap (*National Cultural Fund*) (hereinafter referred to as “NKA”). If other rights related to the work of the unknown author or the author whose whereabouts is unknown are managed by several collective

⁸¹ Enacted: by Section 8 of Act CXII of 2008. In force: as of 01. 02. 2009.

⁸² Amended: by paragraph (1) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by Section 42 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

⁸³ Amended: by paragraph (2) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph a) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

⁸⁴ Amended: by paragraph (1) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

⁸⁵ Amended: by paragraphs (1) and (3) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraphs b)--e) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

rights-management bodies, they shall receive an equal share from the fee. The NKA shall allocate the share of the royalties it has received for improving access to cultural assets.

(6) If the author disagrees with the amount of the royalty pursuant to what is contained in Subsections (3)-(5), it shall be enforced by judicial proceedings under copyright laws.

(7) Subsections (1)-(6) shall not apply where rights related to licensing fall within the scope of collective licensing arrangements.

(8)⁸⁶ Subsections (1)-(7) shall also apply to the performance of performers who cannot be identified or found.

*Section 57/B.*⁸⁷

(1) The proceedings of the Office under Section 57/A shall be governed by the provisions of Act CXL of 2004 on the General Rules of Administrative Proceedings.⁸⁸

a)⁸⁹ the provisions of the Act on the General Rules of Administrative Proceedings pertaining to notices relating to the opening of proceedings, *ex officio* or upon request, shall not apply;

b)⁹⁰ the Office shall proceed within the confines of the application, relying upon the former statements and presentations of the parties;

c)⁹¹ the provisions of the Act on the General Rules of Administrative Proceedings pertaining to the publication of resolutions, curators *ad litem*, cost exemption and judicial enforcement shall not apply;

d)⁹² the decisions of the Office may not be appealed, and no petition for reopening the case or oversight proceedings, or prosecutor's intervention under the Act on the Prosecution Service may be submitted; the decisions of the Office, and its rulings which can be appealed independently pursuant to the Act on the General Rules of Administrative Proceedings shall be reviewed by the court in non-contentious proceedings as governed in Section 57/C;

e)⁹³ no public hearing may be held;

⁸⁶ Enacted: by Section 32 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

⁸⁷ Enacted: by Section 8 of Act CXII of 2008. In force: as of 01. 02. 2009.

⁸⁸ Amended: by Section 207 of Act LVI of 2009. In force: as of 1. 10. 2009. Amended: by paragraph (4) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph f) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

⁸⁹ Amended: by Section 207 of Act LVI of 2009. In force: as of 1. 10. 2009.

⁹⁰ Amended: by paragraph (1) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

⁹¹ Amended: by Section 207 of Act LVI of 2009. In force: as of 1. 10. 2009.

⁹² Established: by Section 38 of Act XVI of 2013. In force: as of 1. 04. 2013.

⁹³ Enacted: by paragraph (1) Section 206 of Act LVI of 2009. In force: as of 1. 10. 2009. Shall apply to proceedings opened subsequently and to reopened cases.

f)⁹⁴ in the proceedings communication is not permitted by way of short text messages, communication is permitted by way of electronic means in writing only in the cases defined in Section 57/D.

(2)⁹⁵ Review of the decisions of the Office may also be invoked by the competent public prosecutor; the Fővárosi Főügyészség (*Budapest Chief Prosecutors Office*) shall have exclusive jurisdiction for the opening of such proceedings. The Office shall convey its resolutions to the Fővárosi Főügyészség as well.

(3)⁹⁶ The request lodged under Subsection (1) of Section 57/A shall be subject to an administrative service fee according to specific other legislation.

(4) The detailed regulations relating to licensing the exploitation of orphan works - including the amount of the fee referred to in Subsection (3) - shall be laid down in specific other legislation.

(5)⁹⁷ By way of derogation from Paragraph *a*) of Subsection (1), were so requested by the client requesting the proceedings, the Office shall supply information - in accordance with the Act on the General Rules of Administrative Proceedings - within eight days from the day following the date of receipt of the request concerning:⁹⁸

a) the case number and the name of the officer assigned to the case and the officer's contact information;

b)⁹⁹ the date of the opening of the proceedings, the administrative time limit, the durations which are not included in the administrative time limit, and the procedures to be implemented in the event of the Office failure to execute its vested authority;

c) information concerning access to the documents and for the proceedings available for making statements; and

d) a notice indicating that the request shall be construed as consent for the processing and transmission of personal data to the extent necessary for proceedings related to national legal assistance.

⁹⁴ Enacted: by paragraph (1) Section 206 of Act LVI of 2009. In force: as of 1. 10. 2009. Shall apply to proceedings opened subsequently and to reopened cases. Amended: by Section 42 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

⁹⁵ Amended: by paragraph (6) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraphs b), g)–h) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

⁹⁶ Amended: by Section 208 of Act LVI of 2009. In force: as of 1. 10. 2009.

⁹⁷ Enacted: by paragraph (2) Section 206 of Act LVI of 2009. In force: as of 1. 10. 2009. Shall apply to proceedings opened subsequently and to reopened cases.

⁹⁸ Amended: by paragraph (1) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by paragraph (44) Section 2 of Act CLII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

⁹⁹ Amended: by paragraph (1) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

*Section 57/C.*¹⁰⁰

(1)¹⁰¹ A petition for the opening of non-contentious proceedings under Paragraph *d*) of Subsection (1) of Section 57/B shall be submitted within thirty days of delivery of the decision to the Office, which shall forward it within fifteen days to the court together with the documents of the case, save where Subsection (1a) applies.

(1a)¹⁰² Where the petition asserts a fundamental legal issue, the Office shall formulate a written statement and submit it to the court together with the petition and the documents of the case within thirty days.

(2) The regulations pertaining to statements of claims shall apply *mutatis mutandis* to the requisites of the petition referred to in Subsection (1).

(3) If the petition referred to in Subsection (1) is filed beyond the prescribed deadline, the court shall have jurisdiction to decide regarding any application for continuation.

(4)¹⁰³ Non-contentious proceedings opened under Paragraph *d*) of Subsection (1) of Section 57/B shall be governed by the general rules of the Code of Civil Procedure, subject to the exceptions set out in this Act, and to the exceptions stemming from the special characteristics of non-contentious proceedings.

(5)¹⁰⁴ Where the petition for the review of any decision of the Office has been submitted pursuant to the provisions of the Act on the General Rules of Administrative Proceedings in compliance with a Constitutional Court resolution, the deadline for the submission of such petitions shall be extended for another thirty days following delivery of the ruling of the Alkotmánybíróság (*Constitutional Court*).

(6)¹⁰⁵ Proceedings for the review of the decisions of the Office shall fall under the jurisdiction and exclusive competence of the Fővárosi Törvényszék (*Budapest Metropolitan Court*).

(7)¹⁰⁶ In addition to the cases set out in the general provisions of the Code of Civil Procedure, the following parties shall be excluded from the case and from participating as a judge:

a) persons who participated in passing the decision of the Office;

b) persons who are close relatives, as defined in the general provisions of the Code of Civil Procedure relating to the exclusion of judges, of the persons referred to in Paragraph *a*).

(8)¹⁰⁷ The provisions of Subsection (7) shall also apply to the exclusion of keepers of the minutes and experts.

¹⁰⁰ Enacted: by Section 8 of Act CXII of 2008. In force: as of 01. 02. 2009.

¹⁰¹ Established: by Section 33 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁰² Enacted: by Section 33 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁰³ Established: by paragraph (1) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹⁰⁴ Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹⁰⁵ Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹⁰⁶ Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹⁰⁷ Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

(9)¹⁰⁸ The petitioner shall take part in the court proceedings as a party.

(10)¹⁰⁹ If an adverse party is involved in any proceedings before the Office, the court action shall be brought against this party.

(11)¹¹⁰ If an adverse party is involved in the court proceedings, the regulations governing the costs of a legal action shall apply *mutatis mutandis* for the advance payment or liability for the costs of the proceedings. In ex parte cases, the petitioner shall advance, and bear, the costs.

(12)¹¹¹ If the Office has filed a statement [Subsection (1a) of Section 57/C, Subsection (3) of Section 92/D], the presiding judge shall inform the party or the parties concerning such statement in writing.

(13)¹¹² If the case can be decided on the basis of the documents, the court may adopt a decision without hearings, however, the party shall be permitted to state his case if he so requests.

(14)¹¹³ If the court decides the case without a hearing, however, it finds during the course of the proceedings that hearings are in order, such hearings may be set at any time.

(15)¹¹⁴ In court proceedings settlement agreements are not permitted.

(16)¹¹⁵ The court shall decide by way of a ruling on the merits of the matter and in other cases. The court shall annul the decision of the Office if found unlawful - with the exception of any violation of a procedural rule that does not effect the merits of the case - and shall order the Office to reopen the case where deemed necessary.

(17)¹¹⁶ If, following transmission of the petition for review, the Office has withdrawn any of its decisions, the court shall terminate the proceedings. If the Office has amended its decision, the court proceedings may be continued only for the issues still in dispute.

*Section 57/D.*¹¹⁷

¹⁰⁸ Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹⁰⁹ Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹¹⁰ Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹¹¹ Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹¹² Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹¹³ Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹¹⁴ Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹¹⁵ Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹¹⁶ Enacted: by paragraph (2) Section 39 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹¹⁷ Enacted: by paragraph (3) Section 206 of Act LVI of 2009. In force: as of 1. 10. 2009. Shall apply to proceedings opened subsequently and to reopened cases.

(1)¹¹⁸ Applications for license of use of orphan works and for the withdrawal of such licenses may be submitted by way of electronic means as well, using the standard electronic forms prescribed by the Office.

(2)¹¹⁹ The Office shall confirm receipt of the application transmitted by way of electronic means by sending a notice to the sender - in accordance with specific other legislation - by an automated reply system containing an electronic file number.

(3)¹²⁰ The Office shall forthwith examine the application received by way of electronic means according to Subsection (1) for compliance with the statutory requirements laid down for communications maintained by way of electronic means.

(4)¹²¹ If transmitted electronically, the application referred to in Subsection (1) shall be considered submitted when the automatic confirmation is sent to the applicant containing the electronic file number, except if the Office declares the document received unworkable, and notifies the client accordingly by electronic mail.

(5)¹²² The client having sent the unworkable document shall confirm receipt of the notice transmitted according to Subsections (4). If the client fails to confirm receipt of the notice within fifteen days, the Office shall send the same document by way of the postal service.

PART TWO

PROVISIONS RELATING TO SPECIFIC GENRES

Chapter VI

SOFTWARE PROGRAM CREATION

Section 58

(1) The provisions of Subsection (6) of Section 1 also apply to the idea, principle, concept, procedure, method of operation or mathematical operation on which the software interface is based.

¹¹⁸ Amended: by paragraph (1) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹¹⁹ Amended: by paragraph (1) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹²⁰ Amended: by paragraph (1) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹²¹ Amended: by paragraph (1) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹²² Amended: by paragraph (1) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

(2) The provisions of Subsection (2) of Section 4 also apply to the adaptation of an original program language to a different program language.

(3) The economic rights pertaining to software are transferable.

(4) The provisions of Subsections (3)-(4) of Section 30 do not apply to software created as work made for hire.

Section 59

(1) Unless otherwise agreed, an author's exclusive rights do not cover reproduction, alteration, adaptation, translation, or any other modification of the software - including the correction of mistakes - as well as the reproduction of the results of these acts in so far as the person authorized to acquire the software performs these actions in accord with the intended purpose of the software.

(2) Use contracts cannot prohibit users from making safety copies of software if it is necessary for use.

(3) Persons authorized to use copies of software are entitled, without the author's authorization, to observe and study the operation of the software and make a trial use thereof in the processes of its input, display on the monitor, running, transmission or storage in order to get to know the idea or principle serving as a basis for any of the software components.

Section 60

(1) The author's authorization is not required for reproducing or translating a code that is indispensable for acquiring the necessary information for the combined operation of the independently created software with another software, provided that

a) these acts of use are performed by the authorized user or another person entitled to use the copy of the software or a person put in charge of performing these acts by the persons referred to in this Paragraph;

b) the necessary information for combined operation has not become easily accessible to the persons referred to in Paragraph *a)*;

c) these acts of use are limited to those parts of the software that are necessary for permitting combined operation.

(2) The information obtained through application of the provisions of Subsection (1) cannot be

a) used for a purpose other than combined operation with independently created software;

b) communicated to another person unless it is required for combined operation with independently created software;

c) used for developing, producing, and distributing another software essentially similar in its form of expression or for any other act related to copyright infringement.

(3) The provisions of Subsection (2) of Section 33 must be clearly applied to the acts stipulated by Subsections (1)-(2).

(4) Subsection (2) of Section 34 and Subsection (1) of Section 38 cannot be applied to software. The period stipulated in Subsection (1) of Section 49 is four months in the case of software.

(5) In case copies of the software are procured through commercial distribution, it is not obligatory to put in writing a contract relating to the use of the software.

Chapter VII

*DATABASES*¹²³

*Section 60/A*¹²⁴

(1) For the purposes of this Act ‘database’ shall mean collections of independent works, data or other materials which are systematically or methodically arranged and can be individually accessed by electronic or other means.

(2) The provisions pertaining to databases shall also apply to the documentation, which is necessary for the operation of the database or to access its contents.

(3) The provisions pertaining to databases shall not apply to software used for the creation or operation of databases which can be accessed by electronic means.

Section 61

(1)¹²⁵ Databases are protected by copyright if recognized as collections of works (Section 7).

(2)¹²⁶ The economic rights pertaining to databases can be transferred.

(3)¹²⁷ The provisions of Subsections (3)-(4) of Section 30 do not apply to databases created by an author as work made for hire.

(4)¹²⁸ Any clause in an authorization agreement that departs from the provisions laid down in Subsections (1) and (2) is null and void.

(5)¹²⁹ In case copies of the database are procured through commercial channels, it is not obligatory to put in writing a contract relating to the use of the database.

Section 62

(1)¹³⁰ The author’s authorization is not required for authorized database users to perform the acts that are necessary for accessing the database’s contents and properly using the database’s contents.

¹²³ Amended: by Section 12 of Act LXXVII of 2001. In force: as of 1. 1. 2002.

¹²⁴ Enacted: by Section 4 of Act LXXVII of 2001. In force: as of 1. 1. 2002. Shall apply to the authorization agreements concluded subsequently.

¹²⁵ Enacted: by Section 5 of Act LXXVII of 2001. In force: as of 1. 1. 2002. Shall apply to the authorization agreements concluded subsequently.

¹²⁶ Amended: by Section 12 of Act LXXVII of 2001. In force: as of 1. 1. 2002.

¹²⁷ Amended: by Section 12 of Act LXXVII of 2001. In force: as of 1. 1. 2002.

¹²⁸ Enacted: by Section 6 of Act LXXVII of 2001. In force: as of 1. 1. 2002. Shall apply to the authorization agreements concluded subsequently.

¹²⁹ Enacted: by Section 6 of Act LXXVII of 2001. In force: as of 1. 1. 2002. Shall apply to the authorization agreements concluded subsequently.

¹³⁰ Amended: by Section 12 of Act LXXVII of 2001. In force: as of 1. 1. 2002.

(2) If the right to use only a part of a database has been obtained, the provisions of Subsection (1) shall apply to that part of the database.

(3) The provisions of Subsection (2) of Section 33 shall apply to the acts stipulated in Subsections (1)-(2).

Chapter VIII

WORKS ORDERED FOR ADVERTISING

Section 63

(1) The economic rights to works ordered for advertising can be transferred to the user.

(2) The method of use, its scope, the geographic area affected, the period involved, the determination of the advertising medium, as well as the remuneration due to the author are particularly essential issues when contracts on economic rights transfers are concluded.

(3) Such works are not included in collective rights management.

(4)¹³¹ In the case of using previously existing works for advertising, the author and the user can agree that the work shall be considered - solely in terms of applying the provisions of Subsections (1)-(3) and use in advertising - as a work ordered for advertising. This agreement shall become effective for the collective rights management organization only if the author informs the organization of this in writing.

Chapter IX

MOTION PICTURE AND OTHER AUDIOVISUAL WORKS

General Provisions

Section 64

(1) A motion picture is a work that is expressed by a series of pictures arranged in a predetermined order together with accompanying sound, if any, irrespective of the medium in which the work has been fixed. Feature films produced for movie projection, television films, publicity and documentary films as well as cartoons and educational films are considered motion picture works.

(2) The authors of a motion picture work are the authors of the literary and musical works prepared for the motion picture, the director of the motion picture, and all of the other persons who make creative contributions to the production of the motion picture. This provision does not affect the rights of the authors of other works used in the production of a motion picture work.

(3) The producer of a motion picture (hereinafter referred to as the „producer”) is the natural or artificial person or de fact corporation that, on its own behalf, initiates and organizes the creation of the motion picture and provides the necessary financial and other conditions for it.

Section 65

¹³¹ Amended: by paragraph (1) Section 43 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

(1) A motion picture work is completed if its final version is accepted as such by the authors and the producer. None of the parties is entitled to make any unilateral changes in the final version once a work has been completed.

(2) The alteration of a completed film by addition, omission, replacement, or other means requires the authorization of the authors and the producer.

(3) Unless otherwise agreed between the authors, the director shall represent the other authors in exercising the rights stipulated in Subsections (1)-(2).

(4) With the exception of the rights stipulated in Subsections (1)-(2), the producer may take action to protect the moral rights of the authors.

(5) Motion picture works shall not be subject to the general provisions pertaining to works made for hire (Section 30).

Film Contracts

Section 66

(1) Pursuant to a contract concluded for the production of a motion picture work (hereinafter referred to as a „film contract”), the author (with the exception of composers of musical works with or without lyrics) transfers, in the absence of stipulations to the contrary, to the producer the right of use for the motion picture work and the right to license use.

(2)¹³² Transfer of the right for the licensing of use shall not include the economic rights governed in Sections 20, Subsections (3) and (6) of Section 23, and in Section 28.

(3) Separate remuneration is due an author for each means of use. The assistance received by a producer for making a film is considered as income related to use. It is the producer’s obligation to pay remuneration.

(4) A producer may exercise the rights due him under the contract jointly with another natural or legal person, whether domestic or foreign.

(5) The producer is obliged, at least once a year, to report to the author on the income related to use of the motion picture work for each means of use.

(6) Should the producer fail to begin filming within four years from the acceptance of the work, or if such work is begun but not completed within a reasonable period of time, the author may abrogate the contract and claim payment of equitable remuneration. In such a case, the author is entitled to keep any advance payment that has been received, and he may freely dispose of his work.

(7) If a contract is concluded for a work to be created in the future for a motion picture, the producer is obliged to notify the author in writing within six months from the delivery of the work whether he will accept it or ask for a revision. In the event the work is returned to the author for revision, an appropriate deadline is to be set for doing the revision. The producer is obliged to make it known whether he will accept the revised work within three months from the day on which the revised work is delivered to him. Should the producer fail to meet his obligation to make a statement accepting the work or the revised work, the work shall be considered as accepted.

(8) The author may not, without the producer’s consent, conclude a new film contract for the same work within ten years of the end of production. This limitation shall also apply to

¹³² Established: by Section 9 of Act CXII of 2008. In force: as of 01. 02. 2009.

characteristic figures in a cartoon or puppet film and - if it is agreed between the parties - to other works by the author with the same theme as that of the work created and used for the production of the film.

Chapter X

DESIGNS FOR FINE ART, PHOTOGRAPHIC, ARCHITECTURAL, AND APPLIED ART WORKS AS WELL AS INDUSTRIAL DESIGNS AND TECHNICAL STRUCTURES

Moral rights

Section 67

(1) Any alteration of the design of an architectural work or technical structure that is made without the author's authorization and influences the appearance, intended use, or operation of the work is an unauthorized alteration of the work.

(2) Designers have the right to determine where and how their names and the dates of their designs should be indicated on buildings and technical structures. However, this right can only be exercised without disproportionate and unwarranted injury to the rights and lawful interests of owners, users, and operators.

(3) The author's name must be indicated in a visual representation if it is intended to present a specific fine art, architectural, or applied art work or an industrial design or technical structure. The author's name must also be indicated if such works are used for presentation in scientific and educational lectures as well as in classroom instruction (Subsection (4) of Section 33).

(4) Only the name of the author of the original design need appear in the case of new and unaltered use of architectural and technical designs and reuse of standard designs.

(5) The provisions of Subsection (1) of Section 34 cannot apply to the use of fine art, photographic, and applied art works.

(6) The user of a work must tolerate having the work shown and photographed if it does not infringe his equitable interests.

Cases of Free Use

Section 68

(1) Visual representations of fine art, architectural, and applied art works that have been permanently erected in a public place outdoors can be made and used without remunerating the author or obtaining his consent.

(2) Pictures of fine art, architectural, and applied art works as well as pictures of industrial designs and photographic works can be used for scientific or educational lectures (Subsection (4) of Section 33) and classroom instruction without remunerating the author or obtaining his consent.

The Right of Exhibition

Section 69

(1) The owner of a fine art, photographic or applied art work is obliged to make the work temporarily available to the author so that he can exercise his author's rights, if in so doing the author does not infringe the owner's equitable interest.

(2) The author's approval is required for the exhibition of fine art, photographic, architectural and applied art works. It is not necessary to obtain the consent of the author or remunerate the author for displaying a work in a public collection.

(3) The author's name shall be indicated in the case of the exhibition of the work.

Subsequent Rights

Section 70¹³³

(1) Royalties must be paid when the ownership rights to an original work of art are transferred for valuable consideration with the involvement of an art dealer. This provision applies only after the first time the ownership rights to a work of art are transferred by the author. This type of remuneration may not be waived.

(2) For the purposes of this Section, 'original work of art' means works of graphic art (such as pictures, collages, paintings, drawings, engravings, prints, lithographs, sculptures) and works of plastic art (such as tapestries, ceramics, glassware) and photographs, provided they are made by the artist himself or are copies considered to be original works of art. Copies of works of art, which have been made in limited numbers by the artist himself or under his authority, shall be considered to be original works of art. Such copies will normally have been numbered, signed or otherwise duly authorized by the artist.

(3) For the purposes of this Section, 'art dealer' means any natural or legal person and unincorporated business association that (who) is engaged in dealing in works of art.

(4) The royalty shall be set at the following rates based upon the value of the works of art as specified or may be expressed in monetary terms (hereinafter referred to as "sale price"), exclusive of taxes and other public dues:¹³⁴

*a)*¹³⁵ 4 per cent on the portion of the sale price up to the forint equivalent of 50,000 euro;

b) 3 per cent for the portion of the sale price from EUR 50,000.01 to EUR 200,000, or its equivalent in forints;

c) 1 per cent for the portion of the sale price from EUR 200,000.01 to EUR 350,000, or its equivalent in forints;

d) 0.5 per cent for the portion of the sale price from EUR 350,000.01 to EUR 500,000, or its equivalent in forints;

e) 0.25 per cent for the portion of the sale price exceeding EUR 500,000, or its equivalent in forints.

(5) The total amount of the royalty may not exceed EUR 12,500, or its equivalent in forints.

¹³³ Established: by Section 1 of Act CVIII of 2005. In force: as of 01. 01. 2006.

¹³⁴ Amended: by paragraph (3) Section 43 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹³⁵ Established: by Section 34 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

(6) The transfers referred to in Subsection (1) are exempt from the obligation to pay royalties if the sale price, exclusive of taxes and other public dues (e.g. cultural contribution), is below 5,000 forints.

(7) The sale price shall be translated to forints based upon the official exchange rate of the Magyar Nemzeti Bank in effect on the first day of the calendar quarter when the transfer was transacted.

(8) Where a museum obtains title to an original work of art from a person other than an art market professional the royalty referred to in Subsection (1) shall not be paid, provided that the activities of the museum are not for direct or indirect economic or commercial advantage.

(9) The art dealer shall be liable to pay the royalties to the organization providing collective management of copyrights relating to graphic and plastic works of art. Where several art dealers are involved in a transaction for the transfer of title, these dealers shall be subject to collective liability for the payment of royalties. In such cases the obligation falls upon the seller, unless there is an agreement among the art dealers involved to provide otherwise. If none of the art dealers involved in the transaction participates as the seller, the obligation falls upon the buyer, unless there is an agreement among the art dealers to provide otherwise.

(10) Art dealers shall pay the royalties quarterly, by the 20th day of the month that follows the quarter in question, for the transactions concluded during the quarter to the organization providing collective management of copyrights relating to graphic and plastic works of art. When making payment of royalties the author's name shall be indicated, unless it proves to be impossible, and the title of the work, the sale price and the amount of royalties separately for each work. The organization providing collective management of copyrights shall pay the royalties it has received to the author of the work in question or his/her successor in title.

(11) The organization providing collective management of copyrights shall be entitled to demand from the art dealer to disclose any data that may be necessary for the collection of royalties for a period of three years from the date of conclusion of the sales contract referred to in Subsection (1).

(12) The provisions contained in Subsections (1)-(11) shall apply to:

a) any author or his/her successor in title who is a national of any Member State of the European Economic Area; and

b) nationals of any State that is not a party to the Agreement on the European Economic Area, provided that the laws of the country of citizenship of the author or his/her successor afford similar rights to authors or their successors in title from Member States of the European Economic Area; or

*c)*¹³⁶ any author or his/her successor in title who is not a national of any Member State of the European Economic Area, who have their habitual residence in the territory of Hungary.

(13)¹³⁷ In connection with Paragraph *b)* of Subsection (12) the position of the minister in charge of the judicial system shall be observed. In relation to any work of art governed by Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art, the minister in charge of the judicial system shall adopt his position in due observation of the list published by the European Commission.

¹³⁶ Amended: by Section 42 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹³⁷ Amended: by subparagraph i) paragraph (5) Section 170 of Act CIX of 2006. In force: as of 01. 01. 2007.

Other Provisions

Section 71

As regards industrial design and interior design works that are used for industrial production,

- a)* the right to have the name indicated can be provided by statute or contract, the provisions of this Act notwithstanding;
- b)* the user has the right of exclusive use and alteration within the scope of the contract, but the designer must be consulted before any alteration is made; and
- c)* the contract must provide as to whether the user is entitled to use the creation with or without a time limit.

Section 72

As regards portraits made to order, the consent of the person portrayed is also required in order to exercise the copyright.

PART THREE

NEIGHBORING RIGHTS¹³⁸

Chapter XI

PROTECTION OF SUBSIDIARY RIGHTS

Protection of Performers

Section 73

- (1) Unless otherwise provided by statute, the performer's authorization is required for
- a)* fixing his unfixed performance;
 - b)* broadcasting his unfixed performance or communicating it in some other manner to the public, unless the performance broadcast or communicated in some other manner to the public is itself a broadcast performance;
 - c)* reproducing his fixed performance;
 - d)* distributing his fixed performance;
 - e)* making his performance available to the public by cable or any other device or in any other manner so that members of the public may access these works from a place and at a time individually chosen by them.
- (2) In the case of an ensemble of performers, the members of the ensemble may exercise the rights referred to in Subsection (1) through the agency of their representative(s).
- (3) A performer who authorizes the fixation of his performance in a motion picture work transfers, by means of his authorization - unless otherwise stipulated - the economic rights

¹³⁸ Established: by paragraph (1) Section 8 of Act LXXVII of 2001. In force: as of 1. 1. 2002. Shall apply to the authorization agreements concluded subsequently.

referred to in Subsection (1) (Subsection (3) of Section 64) to the producer of the film. This provision does not affect the performers' claim to remuneration pursuant to Sections 20 and 28. Subsection (6) of Section 23 must also be duly applied to performers.

Section 74

(1) Unless otherwise provided by this Act, remuneration is due performers for the uses described in Subsection (1) of Section 73.

(2)¹³⁹ The provisions of Subsection (3) of Section 27 pertaining to the exercise of the right provided for in Paragraph *e*) of Subsection (1) of Section 73 and the payment of a fee for the recording of a performance made for broadcasting or communication to the public [Subsection (6) of Section 26] must also be duly applied in the case of performers and their collective rights management organizations.

*Section 74/A.*¹⁴⁰

(1) Where a contract on the fixation of performances with a phonogram producer gives the performer a right to claim a non-recurring remuneration, the performer shall have the right to obtain an annual supplementary remuneration from the phonogram producer for each full year immediately following the 50th year after the phonogram was lawfully published or, failing such publication, the 50th year after it was lawfully communicated to the public. The right to obtain such annual supplementary remuneration may not be waived by the performer. Performers shall be able to exercise their right to claim supplementary remuneration only through collective right management.

(2) Payment of the remuneration referred to in Subsection (1) to the collective rights-management body shall correspond to 20 per cent of the revenue acquired during the year preceding that for which the said remuneration is paid, from the reproduction, distribution and making available of the phonogram in question [Paragraph *c*) of Subsection (1) of Section 76], following the fiftieth year after it was lawfully published or, failing such publication, the fiftieth year after it was lawfully communicated to the public. Phonogram producers are required to provide to performers who are entitled to supplementary remuneration, and to the collective rights-management body, any information which may be necessary for the distribution of that remuneration.

(3) Where a performer is entitled to recurring payments under contract on the fixation of performances with a phonogram producer corresponding to the income from use of their performances, the performer shall receive remuneration following the fiftieth year calculated from the first day of the year after the year when the phonogram was lawfully published or, failing such publication, the fiftieth year after it was lawfully communicated to the public. Any provision for the deduction of advance payments or any contractually defined deductions shall be null and void.

¹³⁹ Established: by Section 69 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Amended: by paragraph (1) Section 43 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁴⁰ Enacted: by Section 40 of Act XVI of 2013. In force: as of 1. 11. 2013.

Section 75

(1) In the case of the uses referred to in Subsection (1) of Section 73, performers have the moral right to have their names indicated, depending on the nature of the use and in a manner consistent with it. In the case of ensembles of performers, this right applies to indicating the names of the ensemble, the leader of the ensemble, and the chief performers.

(2)¹⁴¹ The distortion, mutilation or alteration of a performance in any way, including any other wrongful conduct relating to a performance, that does injury to the integrity or reputation of a performer is an infringement of his moral rights.

Protection of Producers of Phonograms

Section 76

(1) Unless otherwise provided by statute, the authorization of the producer of a phonogram is required for the phonogram to be

a) reproduced,

b) distributed, or

c) made available to the public by cable or any other means or in any other manner so that members of the public may access it from a place and at a time individually chosen by them.

(2) Unless otherwise provided by statute, the producer of a phonogram has a right to remuneration for the uses referred to in Subsection (1).

Section 77

(1) In the case of broadcasting a phonogram that has been released for commercial purposes or a copy of it or communicating the phonogram or a copy of it to the public in any other manner, the user must pay an additional remuneration in addition to the royalty to be paid for the use of the copyrighted work, which remuneration is due to the producer of the phonogram and the performer on an equal basis, unless the entitled parties agree otherwise.

(2)¹⁴² For the purposes of Subsection (1), a phonogram shall be considered as released for commercial purposes if it is made available to the public in the manner provided in Paragraph *e)* of Subsection (1) of Section 73 and Paragraph *c)* of Subsection (1) of Section 76. For the purposes of Subsection (1) of this Section and Paragraph *b)* of Subsection (1) of Section 73, the use governed in Subsection (2) of Section 28 shall also be treated as communication to the public. Furthermore, within the application of Subsection (1) above, the conveyance of sound recordings to the audience [Paragraph *b)* of Subsection (2) of Section 24] shall also be treated as communication to the public.

¹⁴¹ Established: by Section 17 of Act CLIX of 2013. In force: as of 25. 10. 2013.

¹⁴² Amended: by Section 69 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

(3)¹⁴³ The entitled parties can enforce their claim to remuneration only through their collective rights management organizations, and they may repudiate their remuneration only after the distribution date and to the extent of the amount due to them.

Section 78

(1) The authorization of the producer of a phonogram - in addition to that of the author of the work embodied in the phonogram - and - in the case of a phonogram of a performance - the authorization of the performer(s) are required for the public lending and rental of the released copies of the phonogram.

(2)¹⁴⁴ The use determined in Subsection (1) is subject to the payment of remuneration, which shall be distributed on an equal basis among the entitled parties, unless they agree otherwise. The authors and the performers are entitled to enforce their claim to remuneration through the agency of their collective rights management organizations, and they may repudiate such remuneration only after the distribution date and to the extent of the amount due to them.

Section 78/A.¹⁴⁵

If the performer terminates the contract on the fixation of his performances with a phonogram producer pursuant to Subsections (2)-(3) of Section 55, all rights of the phonogram producer in the phonogram shall expire.

Section 79

Producers of phonograms have the right to have their names indicated on the copies of phonograms.

Protection of Radio and Television Organizations

Section 80

(1) Unless otherwise provided by law, the authorization of a radio or television organization is required for its programs to be

a) broadcast or transmitted to the public by other radio or television organizations or by carriers that transmit to the public by cable;

b) fixed;

c) reproduced after fixation, if the fixation was made without its authorization, or if the fixation was made pursuant to Subsection (2) of Section 83 and the reproduction is made for a purpose other than that to which Subsection (2) of Section 83 pertains.

*d)*¹⁴⁶ made available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

¹⁴³ Amended: by paragraph (1) Section 43 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁴⁴ Amended: by paragraph (1) Section 43 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁴⁵ Enacted: by Section 41 of Act XVI of 2013. In force: as of 1. 11. 2013.

(2) Unless otherwise provided by statute, the authorization of the television organization is required for its programs to be transmitted to the public in a place in which the program is accessible to the public for the payment of an entrance fee.

(3) Unless otherwise provided by statute, remuneration must be paid for the uses described in Subsections (1)-(2).

(4) The provisions of Subsections (1)-(3) must be duly applied in the case of transmission by cable of one's own program to the public [Subsection (7) of Section 26].

Section 81

In the case of the uses described in Section 80, radio and television organizations and carriers transmitting their own programs by cable to the public have the right to have their names indicated.

Protection of the Producers of Motion Picture Works

Section 82

(1) The authorization of the producer of a motion picture [Subsection (3) of Section 64] is required for the motion picture to be

a) reproduced;

b) distributed, inclusive of lending to the public;

c) made available to the public by cable or any other means or in any other manner so that members of the public may access the motion picture from a place and at a time individually chosen by them.

(2) Unless otherwise provided by statute, remuneration must be paid for the uses referred to in Subsection (1).

(3) The protection provided pursuant to Section 2 of this Act must be duly applied to the producer of the film.

Relationship Between Copyright and Subsidiary Rights

Section 83

(1) Protection of the rights stipulated in this Chapter cannot influence the protection of copyrights in literary, scientific and art works.

(2) The authorization of owners of subsidiary rights is not necessary in those cases in which the law does not require the authorization of the author of a copyrighted work. If any remuneration is due to the owner of a subsidiary right pursuant to this Act, the provision pertaining to the proportion of remuneration as set forth in the first sentence of Subsections (4)-(5) of Section 16 must also be applied to owners of subsidiary rights.

Duration of Copyright Protection

¹⁴⁶ Enacted: by Section 71 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

*Section 84*¹⁴⁷

(1) Subject to the exceptions set out in Subsection (2) hereof, the duration of protection for the rights stipulated in this Chapter shall be the following:

a) in the case of unfixed performances, fifty years from the first day of the following year in which the performance occurred;

b) in the case of rights in performances fixed by means other than phonograms, fifty years from the first day of the following year in which the phonogram was first distributed or, if the phonogram was not distributed, from the first day of the following year in which the phonogram was made;

c) in the case of rights in phonograms and in the performances fixed therein, seventy years from the first day of the following year in which the phonogram was first distributed or, if the phonogram was not distributed, fifty years from the first day of the following year in which the phonogram was made;

d) in the case of rights in phonograms, seventy years from the first day of the following year in which the phonogram was first distributed or, if the phonogram was not distributed, fifty years from the first day of the following year in which the phonogram was made;

e) in the case of rights in a broadcast program or in an own program transmitted by cable to the public, fifty years from the first day of the following year in which the first broadcast or transmission occurred;

f) in the case of rights in films, fifty years from the first day of the following year in which the film was released for distribution or, if the film was not released during that time, fifty years from the first day of the following year in which production of the film was completed.

(2) The fifty-year duration under Paragraphs *b)* and *f)*, and the seventy-year duration under Paragraph *c)* of Subsection (1) shall apply from the first day of the following year in which first communication to the public took place, if it was not released within fifty years from the date of completion, however, it was communicated to the public, or communication to the public took place before the date of distribution. In the case of phonograms, the seventy-year duration under Paragraph *d)* of Subsection (1) shall apply from the first day of the following year in which first communication to the public took place, if the phonogram was not distributed within fifty years from the date of completion, however, it was communicated to the public.

*Chapter XI/A*¹⁴⁸

PROTECTION OF AUTHORS OF DATABASES

*Section 84/A*¹⁴⁹

¹⁴⁷ Established: by Section 42 of Act XVI of 2013. In force: as of 1. 11. 2013.

¹⁴⁸ Enacted: by paragraph (2) Section 8 of Act LXXVII of 2001. In force: as of 1. 1. 2002. See paragraphs (2)-(6) of Section 13 of Act LXXVII of 2001.

¹⁴⁹ Enacted: by paragraph (2) Section 8 of Act LXXVII of 2001. In force: as of 1. 1. 2002. See paragraphs (2)-(6) of Section 13 of Act LXXVII of 2001.

(1) Unless otherwise prescribed by law, the consent of the author of the database (Section 60/A) is required

a) for any reproduction [Paragraph *b)* of Subsection (1) of Section 18] (hereinafter referred to as ‘extraction’);

b) for making available to the public all or a substantial part of the contents of his database by the distribution of copies, or by transmission to the public as governed under Subsection (8) of Section 26 (hereinafter referred to as ‘re-utilization’).

(2) Distribution as referred to in Paragraph *b)* of Subsection (1) covers the following forms of distribution: marketing by conveyance of title by sale or other means, importation for the purpose of marketing and renting. The provisions set forth in Subsection (5) of Section 23 also duly apply to the rights of the author of the database.

(3) The repeated and systematic extraction and/or re-utilization of insubstantial parts of the contents of the database implying acts which conflict with a normal exploitation of that database or which unreasonably prejudice the legitimate interests of the maker of the database shall not be permitted without the author’s consent.

(4) Unless otherwise prescribed by law, any use under Subsections (1)-(3) is subject to remuneration.

(5) The author of a database is entitled to the rights defined under Subsections (1)-(3) if obtaining, verifying or presenting the contents of a database requires substantial investment of financial resources and/or time, effort and energy.

(6) The rights defined under Subsections (1)-(3) are available to the natural person designated as the author of the database, or the legal person or unincorporated organization designated as the rightholder who has in his own name taken the initiative and the risk for making the database and has provided the necessary investment.

(7) The author of a database shall be protected by rights defined in Subsections (1)-(3) regardless of whether or not the database is covered by copyright or any other type of legal protection. The author of the database is entitled to these rights even if the various parts and components of the database are not and cannot be covered by copyright or any other type of legal protection.

(8) The rights of the author of the database shall be without prejudice to the rights of the authors of other materials incorporated into the database and other rights pertaining to certain parts of the contents of the database.

(9)¹⁵⁰ Unless otherwise provided for by international agreement, the author of a database shall be entitled to protection under this Act:

a) if he is a citizen of a Member State of the European Economic Area or if his habitual residence is inside the European Economic Area;

b) if, in respect of legal persons and unincorporated business associations, the author is registered in a Member State of the European Economic Area and if the headquarters, central administration office or principal place of business - as designated in the deed of foundation - is in the territory of the European Economic Area.

(10)¹⁵¹ In the context of Paragraph *b)* of Subsection (9) of this Section, protection under this Act is provided to a legal person or unincorporated business association where only the

¹⁵⁰ Established: by paragraph (3) Section 7 of Act LXIX of 2004. In force: as of 10. 07. 2004.

¹⁵¹ Established: by paragraph (3) Section 7 of Act LXIX of 2004. In force: as of 10. 07. 2004.

headquarters is located in the territory of the European Economic Area as designated in the deed of foundation, only if its business operations are in fact connected to the economy of any Member State on a regular basis.

Section 84/B.¹⁵²

(1) The consent of the author of a database which is made available to the public is not required for the extraction and/or re-utilization - whether repeated and systematic - of insubstantial parts of the contents of the database by a lawful user.

(2) Where the lawful user is authorized to use only part of the database, the provision laid down in Subsection (1) applies only to that part.

(3) A lawful user of a database, which is made available to the public, may not perform acts that conflict with normal exploitation of the database or unreasonably prejudice the legitimate interests of the maker of the database.

(4) The provisions set forth in Subsections (1) and (2) shall be without prejudice to the rights of the authors of other materials incorporated into a database and neighboring rights pertaining to certain parts of the contents of the database.

(5) Any clause in an authorization agreement that departs from the provisions laid down in Subsections (1)-(4) is null and void.

Section 84/C.¹⁵³

(1) A substantial part of the contents of a database may be extracted for private purposes, such operations, however, must not be for profit making or any other gainful purpose in any way or form. This provision shall not apply to electronic databases.

(2) A substantial part of the contents of a database may be extracted for the purposes of illustration for teaching or scientific research, with the source specified and in the manner and to the extent necessary, such operations, however, must not be for profit making or any other gainful purpose in any way or form.

(3) A substantial part of the contents of a database may be extracted and/or re-utilized for the purposes of a judicial, administrative or other regulatory procedure in the manner and to the extent necessary.

(4) The provisions of Section 33 shall duly apply to the cases of free access specified in Subsections (1)-(3).

Section 84/D.¹⁵⁴

¹⁵² Enacted: by paragraph (2) Section 8 of Act LXXVII of 2001. In force: as of 1. 1. 2002. See paragraphs (2)-(6) of Section 13 of Act LXXVII of 2001.

¹⁵³ Enacted: by paragraph (2) Section 8 of Act LXXVII of 2001. In force: as of 1. 1. 2002. See paragraphs (2)-(6) of Section 13 of Act LXXVII of 2001.

¹⁵⁴ Enacted: by paragraph (2) Section 8 of Act LXXVII of 2001. In force: as of 1. 1. 2002. See paragraphs (2)-(6) of Section 13 of Act LXXVII of 2001.

(1) The duration of protection for the rights stipulated in this Chapter shall be the following: fifteen years from the first day of the following year in which the database was first made available to the public or, fifteen years from the first day of the following year in which the database was made, if it was not made available to the public in the meantime.

(2) The term of protection of a database shall start anew upon any substantial change made in the contents of a database, where the resulting database in itself is being considered to be a substantial new investment. Substantial change in the contents of a database may result from the accumulation of successive additions, deletions or alterations.

*Section 84/E.*¹⁵⁵

(1) The provisions of Subsection (1) of Section 83 shall duly apply to the rights defined in this Chapter.

(2) Where this Act prescribes any remuneration for the maker of a database, the provision set forth in the first sentence of Subsection (4) of Section 16, regarding the proportion of remuneration, shall apply to authors of databases as well.

(3) The term ‘related rights’ and ‘neighboring rights’ as used in other legislation shall also mean the respective rights of authors of databases, unless otherwise prescribed by treaty, and with the exception of the law promulgating the treaty.

PART FOUR

COLLECTIVE RIGHTS MANAGEMENT AND THE CONSEQUENCES OF THE INFRINGEMENT OF RIGHTS

Chapter XII¹⁵⁶

COLLECTIVE MANAGEMENT OF COPYRIGHTS AND RIGHTS RELATED TO COPYRIGHT¹⁵⁷

Collective Rights Management¹⁵⁸

*Section 85*¹⁵⁹

¹⁵⁵ Enacted: by paragraph (2) Section 8 of Act LXXVII of 2001. In force: as of 1. 1. 2002. See paragraphs (2)-(6) of Section 13 of Act LXXVII of 2001.

¹⁵⁶ Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁵⁷ Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁵⁸ Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁵⁹ Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

Collective rights management is the exercise of copyrights and rights related to copyright that cannot be individually exercised stemming from the nature or circumstances of use, as a consequence of which they are exercised through organizations established by the owners of rights to this end, regardless of whether it is prescribed by law or based on the decision of the owners of these rights. Within the framework of collective rights management, the organization shall determine the amount of royalties and other conditions of use with a view to the licensing of use or enforcing the remuneration referred to in Subsection (5) of Section 16, monitor the use of works and the subject matter of related rights protection, collect and distribute royalties, or transfer them to another collective rights-management body for the purpose of distribution, and shall take action in the case of any infringement of a copyright or related right.

General Provisions Relating to Collective Rights Management¹⁶⁰

Section 86¹⁶¹

- (1) The activities of collective rights-management bodies is subject to registration.
- (2) The register shall indicate the specific type of rights management the collective rights management body provides. The payment of royalties to other persons or organizations, and agreements with other persons or organizations have no effect on any registered body and the owners of rights it represents with respect to the rights management activity in question, and shall not constitute exemption from the legal consequences of copyright infringement.

Section 87¹⁶²

(1) Where a specific collective rights management body had been registered for the management of the same economic rights of a group of rightholders, and this collective rights management body authorizes use for, or enforces a royalty claim against, a user, the user shall be entitled to the use of the works or performances under related rights of the same genre produced by owners of rights covered by the collective rights management body - and falling under collective rights management under the strength of this Act or by decision of the rightholders concerned - provided the user pays the royalties related to the works and performances involved under the same conditions (extended collective rights management). Where several collective rights-management bodies are registered for the management of the same economic rights of the same group of rightholders, this provision shall apply in accordance with the agreement mentioned in Subsection (3) of Section 92/E in respect of those rightholders whom are not represented by either of such bodies.

(2) Where several collective rights management bodies are registered under Subsection (4) of Section 92, and if such bodies failed to agree before the time of registration with a view to empowering one of them for authorizing use or for enforcing claims for remuneration in respect of those rightholders whom are not represented by either of them, the collective rights management bodies involved may do so subsequently, following registration. The agreement

¹⁶⁰ Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁶¹ Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁶² Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

shall be subject to the Office's approval. The agreement shall be made public by way of the procedure described in Subsection (3) of Section 92/E. If no agreement is reached before the expiry of the period to which the previous bill of royalties applies, the Office shall appoint a collective rights management body to exercise extended collective rights management with respect to rightholders with no representation, that is deemed able to implement the conditions for registration as effectively as possible. The Office shall publish such designation in the *Hivatalos Értesítő (Official Bulletin)*, and - if deemed necessary - shall *ex officio* update the records of the other rightholders pertaining to collective rights management.

(3) Collective rights management may not be extended if the rightholder makes a prior written statement to the collective rights-management body affected objecting to the authorization under collective rights management of the use of his works or the subject matter of related rights protection. The collective rights-management body is required to proceed in accordance with the written statement if it has been submitted more than three months prior to the end of the calendar year and it enters into effect not earlier than the first day of the following year. However, the rightholder may not object to such authorization of a use if collective rights management is prescribed by this Act (compulsory collective rights management).

(4) Where several collective rights-management bodies are registered for enforcing identical claims existing without the right of authorization for remuneration of a single group of rightholders, the collective rights-management bodies involved shall agree on establishing the bill of royalties and on the collection of royalties. The agreement shall be made public by way of the procedure described in Subsection (3) of Section 92/E. In the absence of an agreement, the Office shall - in accordance with Subsection (2) - designate a collective rights-management body for establishing the bill of royalties and for the collection of royalties.

(5) Any reference made in this Act to the collective management of copyrights in literary and musical works shall be understood as the body shown in the register of collective rights-management bodies with entitlement to exercise the right of authorization or for enforcing claims for remuneration concerning the literary and musical works in question, and that is also entitled to exercise extended collective rights management in this respect. This rule shall also apply where this Act makes reference to a body engaged in providing collective management of copyrights relating to fine art and works of applied art.

Section 88¹⁶³

(1) The collective rights-management body shall be treated as the holder of copyright and related rights in exercising the rights falling within collective rights management and their enforcement in the court of law. Other rightholders are not required to enter the legal action so as to enable the collective rights-management body to enforce claims in the court of law.

(2) The royalty claims enforced through collective rights management and the royalties collected are at the disposal of the collective rights-management body until they are distributed to the owners of rights affected.

(3) Collective rights-management bodies may prescribe in the bill of royalties that authorization for use is contingent upon payment of the prescribed fee and of the user supplying data about the works and the subject matter of related rights protection. In the case of public performances, this provision applies only to live performances [Paragraph *a*] of Subsection (2) of Section 24].

¹⁶³ Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

(4) Within the framework of collective rights management - except for the authorization of reproduction by technical means (Section 19) - it must be presumed, until proven otherwise, that the works being used and the subject matter of related rights are being protected.

(5) Within the scope of the rights management performed by them, collective rights-management bodies will, upon the written request of a user, provide a written statement, for a fee, as to whether the work specifically designated by the user and the subject matter of related rights are under protection.

Operation and Financial Management of Collective Rights-Management Bodies¹⁶⁴

Section 89¹⁶⁵

(1) As regards the economic rights they manage, collective rights management bodies shall *inter alia* carry out the following collective rights management activities themselves:

a) determining the amount of royalties and other conditions for use, or taking part therein; and
b) distributing royalties among the rightholders concerned, or collecting royalties and transferring them to another collective rights-management body for the purpose of distribution.

(2) The collective rights-management body shall maintain a database containing collectively managed Hungarian and foreign works, subject matter of related rights protection, and on the owners of rights.

(3) Collective rights-management bodies shall publish on their own website:

a) their bylaws;
b) their organizational and operational regulations;
c) their conditions of membership;
d) their bill of royalties (Section 92/H);
e) their distribution scheme;
f) their annual accounts;
g) lists of members and rightholders they represent, and the names of organizations with which they have entered into reciprocal representation contracts.

*h)*¹⁶⁶ their - valid - agreements mentioned in Subsections (4)-(5) of Section 20, Subsection (7) of Section 21 and in Subsection (4) of Section 28, if any.

(4) Collective rights management may not be performed as a for-profit activity. Where a collective rights-management body is engaged in auxiliary business activities, the revenues therefrom, if any, must be used to reduce the expenses stemming from collective rights management activities, save where Subsection (8) applies.

(5)¹⁶⁷ The collective rights-management body shall distribute its revenues from collective management, less the administration costs, among the owners of rights according to its

¹⁶⁴ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁶⁵ Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁶⁶ Enacted: by paragraph (1) Section 43 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹⁶⁷ Established: by paragraph (1) Section 18 of Act CLIX of 2013. In force: as of 1. 01. 2014.

distribution scheme, irrespective of whether or not they are members of the organization. Subject to the exceptions set out in Subsections (8), (10) and (11a), the income from collective rights management may not be used for other purposes; from the royalties to be distributed among rightholders no deductions are allowed, except for payment obligations established by court ruling or regulatory decision.

(6) Costs of handling shall be deemed justified if required in connection with collective rights management activities, if it serves the rightholders affected, and incurred in the prudential management of finances.

(7) From the royalties transferred to the collective rights-management body of the rightholders concerned for the purpose of distribution only the justified costs of distribution may be deducted.

(8) Collective rights-management bodies shall not be obligated to distribute among the rightholders the whole of sums remaining from royalties due to rightholders who cannot be identified or found, an which cannot be distributed in consequence, or proceeds from membership fees and income from activities other than rights management, and may use these sums in accordance with its bylaws and the decisions of its supreme organ as specified in Subsection (11) for other - in particular social and cultural - purposes in the benefit of rightholders (hereinafter referred to as “use in the interest of rightholders”).

(9) Royalties may be considered unavailable for distribution on account of rightholders who cannot be identified or found, if the collective rights-management body has taken measures to the extent deemed reasonable under the given circumstances, taking into account the types of works, related rights and the forms of exploitation, to locate the rightholders affected, however, it was unable to locate them, and the collective rights-management body placed the sum due to the rightholders in question on a discretionary account, and the rightholders had not been identified or found within one year from that time. Any royalties that are to be transferred to another resident collective rights-management body for the purpose of distribution, or - under a reciprocal representation contract - to a nonresident collective rights-management body, cannot be considered unavailable for distribution and may not be used as such by the collective rights-management body liable to transfer the sum in question.

(10) The collective rights-management body may provide in its distribution scheme that royalties available for distribution may be used in accordance with Subsection (11) in the interest of rightholders.

(11)¹⁶⁸ Up to 25 per cent of the proceeds referred to in Subsection (8), and up to 10 per cent of the proceeds referred to in Subsection (10) may be used to the benefit of rightholders; this decision lies exclusively with the supreme organ, it cannot be delegated and shall be made on a case-by-case basis in accordance with the relevant provisions of the bylaws and the distribution scheme (support policy). By decision of the supreme organ, 70 per cent of the sum allocated from the proceeds described in Subsection (10) to be used for the rightholders' benefit shall be used for cultural purposes in the interest of rightholders. The provisions of the support policy relating to use for cultural purposes shall correspond to the support objectives set out in the Act on the National Cultural Fund. The collective rights-management body shall appropriate its revenues defined in Subsections (8) and (10) for cultural purposes through the NKA, in accordance with the Act on the National Cultural Fund, having regard to the support policy. The collective rights-management body shall make available the sum from its revenues defined in Subsections (8) and (10) - from before the current year - intended for cultural purposes to the NKA within sixty days following the date when its annual account is adopted.

¹⁶⁸ Established: by paragraph (2) Section 18 of Act CLIX of 2013. In force: as of 1. 01. 2014.

(11a)¹⁶⁹ Of the remuneration defined in Sections 20 and 21, 25 per cent shall be allocated for cultural purposes in the interest of rightholders. The collective rights-management body having determined the remuneration defined in Sections 20 and 21 shall transfer the sum specified in this Subsection to the NKA for cultural purposes within sixty days following the date when its annual account is adopted. The NKA shall use the sum received for the support objectives specified in the Act on the National Cultural Fund in the interest of the groups of rightholders defined in Subsections (4)-(5) of Section 20 and Subsection (6) of Section 21.

(11b)¹⁷⁰ If the collective rights-management body applies the provisions of Subsections (8), (10) and (11) to revenues from the remuneration defined in Sections 20 and 21 it shall not affect the application of Subsection (11a) and the obligation of transfer defined therein. In calculating the percentages referred to in Subsection (11) the revenues from the remuneration defined in Sections 20 and 21 shall be taken into account on the whole, without the sum referred to in Subsection (11a) being deducted.

(12) Collective rights-management bodies shall share their operating and maintenance costs, and other indirect expenses according to the legislation on the right of association, public benefit activities, and on the operation of and support provided to civil society organizations.

(13) Collective rights-management bodies are required to keep their books by the double-entry system and to submit annual - not simplified - accounts in accordance with the Accounting Act, that must be audited. Collective rights-management bodies shall indicate in their profit and loss account, in addition to other information prescribed by law, the following items as pertaining to the given financial year:

a) the amount of royalties distributed and the amount unavailable for distribution, broken down by works or performances, and by economic rights;

b) the costs of handling broken down by works or performances, and by economic rights and titles;

c) the amount of royalties remitted to other collective rights-management bodies for the purpose of distribution, broken down by works or performances, and by economic rights and collective rights-management bodies;

d) use of the proceeds defined in Subsections (8) and (10) in the interest of rightholders, indicating the date of providing the support, the reason, the rightholder to whom it is provided, the amount and other material conditions;

e) revenues from membership fees;

f) the financial aids received.

Registration of Collective Rights-Management Bodies¹⁷¹

Section 90¹⁷²

¹⁶⁹ Established: by paragraph (2) Section 18 of Act CLIX of 2013. In force: as of 1. 01. 2014.

¹⁷⁰ Established: by paragraph (2) Section 18 of Act CLIX of 2013. In force: as of 1. 01. 2014.

¹⁷¹ Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁷² Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

(1) The Office shall keep a register on collective rights-management bodies under the regulations on copyright and rights related to copyright.

(2) The register of collective rights-management bodies shall contain:

a) the name and address of the collective rights-management body, and the name and address of its representative;

b) a description of the collective rights management activities carried out by the collective rights-management body, indicating the economic rights involved and the type of rights management activity;

c) a description of the group of rightholders on whose behalf collective rights management activities are carried out;

d) other information prescribed by the government decree on the detailed regulations concerning the register of collective rights-management bodies, to the extent deemed necessary to achieve the objectives of collective rights management.

(3)¹⁷³ The register referred to in Subsection (1) shall be construed as an official public register as regards the data defined in Paragraphs *b)-c)* of Subsection (2).

(4) The register of collective rights-management bodies shall be open to the public for inspection, made available on the official website of the Office by means of electronic access. The data contained in or deleted from the register shall be considered public information, made available to the general public for making copies and to take notes of them.

(5) As part of the register of collective rights-management bodies, the Office shall provide access to the following documents of collective rights-management bodies:

a) bylaws;

b) organizational and operational regulations;

c) conditions of membership;

d) bill of royalties (Section 92/H);

e) distribution scheme;

f) annual accounts.

*g)*¹⁷⁴ their agreements concluded under Subsections (4)-(5) of Section 20, Subsection (7) of Section 21, and Subsection (4) of Section 28.

Conditions for Admission into the Register of Collective Rights-Management Bodies¹⁷⁵

Section 91¹⁷⁶

(1) Only associations may be registered as collective rights-management bodies.

(2) Collective rights-management associations may be registered for the collective management of copyright and related rights for each of the following types of work and performances:

¹⁷³ Established: by Section 19 of Act CLIX of 2013. In force: as of 25. 10. 2013.

¹⁷⁴ Enacted: by Section 44 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹⁷⁵ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁷⁶ Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

- a) literary and musical works;
- b) other works of creative art;
- c) cinematographic works;
- d) performers' performances;
- e) phonograms;
- f) film producers' works.

(3) With a view to enforcing the rightholders' right of self-determination and in order to improve the effectiveness of rights management, derogation is permitted from the grouping referred to in Subsection (2), and associations created for the management of rights other than those mentioned in Subsection (2) may also be registered.

(4) On the basis of an agreement between registered associations, the Office shall update the records pertaining to the rights management activity performed by a registered association if the conditions of registration are amended for all of the affected associations following the amendment of the rights management activities stipulated in the agreement.

Section 92¹⁷⁷

- (1) An association may be admitted into the register of collective rights-management bodies if:
- a) it is willing to accept all concerned owners of rights who wish join and authorize the association to perform the collective management of their rights and who proves eligible for admission according to the criteria stipulated in the bylaws;
 - b) it represents the majority of rightholders affected by the rights management activity it provides, where these rightholders:
 - ba) are members of the association or wish to join it, or
 - bb) have signed individual agreements with the association for the collective management of their rights, and
 - bc) it has entered into representation contracts with bodies engaged in the collective rights management of these rightholders, that are of importance in terms of domestic and international use; or it possesses a letter of intent concerning the conclusion of such contracts;
 - c) it represents the majority of rightholders affected by the rights management activity it provides in accordance with Subparagraphs *ba)-bb)*;
 - d) it has a staff with the appropriate expertise and experience for collective rights management and international relations,
 - e) it is equipped for data processing operations related to collective rights management;
 - f) its bylaws:
 - fa) defines collective rights management as the association's objective,
 - fb) provides for the fulfillment of the operational and financial requirements laid down in Section 89,
 - fc) designates the general meeting of rightholders as the supreme organ, or a body elected by such members directly,
 - fd) delegates exclusive, non-transferable powers upon the supreme organ, in addition to the responsibilities defined by the legislation on the right of association, public benefit activities, and on the operation of and support provided to civil society organizations, to decide as to the

¹⁷⁷ Established: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

approval of the distribution scheme, covering also the support policy, and organizational and operational regulations, on the annual budget and on the approval of the financial report.

(2) In determining as to whether an association represents the majority of rightholders affected, or which one of several associations represents the most rightholders, the number of rightholders, the share of their copyright works and subject matter protected by related rights, and their share in royalties are to be taken into account equally.

(3) An association shall be considered equipped for processing the data related to collective rights management if it is able to maintain a register of rightholders, and a database of copyright works and subject-matter protected by related rights that fall within the scope of collective rights management, and different types of use with facilities for the distribution and disbursement of royalties to the rightholders.

(4) Where several associations, or a new association that is able to meet the requirements for registration, applies for registration for the management of the same economic rights of the same group of rightholders, several associations, or a new association may be registered for compulsory or extended collective rights management services if this will not jeopardize the viability and effectiveness of collective rights management as regards the rightholders and users, and those liable for the payment of royalties.

(5) If the conditions set out in Subsection (4) is not satisfied:

a) from among several associations the one that is best equipped to satisfy the conditions prescribed in Subsection (1) on the whole shall be registered;

b) the new association shall be registered and the association registered previously shall be deleted from the records, if the new association is better equipped to satisfy the conditions prescribed in Subsection (1) on the whole.

Common Provisions for Procedures Relating to the Register of Collective Rights-Management Bodies¹⁷⁸

Section 92/A.¹⁷⁹

(1) Subject to the exceptions set out in this Act, in proceedings related to the registration of collective rights-management bodies the Office shall proceed in accordance with the provisions of the Act on the General Rules of Administrative Proceedings.

(2)¹⁸⁰ The provisions of the Act on the General Rules of Administrative Proceedings pertaining to curators *ad litem* and public hearings shall not apply in proceedings for the registration of collective rights-management bodies. In such proceedings the decisions of the Office may not be appealed, and no petition for reopening the case or oversight proceeding, and no prosecutor's intervention may be filed.

(3) The detailed regulation for the registration of collective rights-management bodies shall be decreed by the Government.

¹⁷⁸ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁷⁹ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁸⁰ Amended: by Section 20 of Act CLIX of 2013. In force: as of 25. 10. 2013.

Section 92/B.¹⁸¹

(1) In proceedings concerning the registration of collective rights-management bodies the Office and the client shall be required to communicate by way of electronic means.

(2) Applications and requests shall be submitted by way of electronic means, using the appropriate standard electronic forms prescribed by the Office.

(3) The Office shall confirm receipt of applications and requests submitted by way of electronic means by sending a notice to the client - in accordance with specific other legislation - by an automated reply system containing an electronic file number.

(4) The Office shall check the applications and requests submitted by way of electronic means immediately upon receipt for compliance with legal requirements prescribed for electronic processing.

(5) Applications and requests shall be considered submitted when the automatic confirmation is sent to the client containing the electronic file number, unless the Office declares the document received unworkable, and notifies the client accordingly by electronic mail.

(6) The client who filed an unworkable document shall be required to confirm receipt of the electronic notices sent in accordance with Subsection (5). If the client fails to confirm receipt of the notice within fifteen days, the Office shall send it in a postal consignment.

(7) The detailed regulations concerning electronic communication in proceedings for the registration of collective rights-management bodies shall be decreed by the Government.

(8) In proceedings relating to the registration of collective rights-management bodies information may not be requested nor supplied by way of short text messages.

Section 92/C.¹⁸²

Applications for the registration of collective rights-management bodies and for updating the records on rights management activities shall be subject to an administrative service fee in the amount decreed by the competent minister, that shall represent revenue to the Office.

Section 92/D.¹⁸³

(1) In proceedings for the registration of collective rights-management bodies the following shall be reviewed by the court in non-contentious proceedings:

a) resolution adopted by the Office, and

b) the Office's ruling on the refusal to grant client status to a client other than the one having submitted a request for the opening of proceedings, for the suspension of proceedings, for imposing an administrative penalty, and the ruling for the refusal or restriction of the inspection of files, which can be appealed independently according to the Act on the General Rules of Administrative Proceedings.

(2) A petition for the opening of non-contentious proceedings shall be submitted within thirty days of delivery of the decision to the Office, which shall forward it within fifteen days to the

¹⁸¹ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁸² Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁸³ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

court together with the documents of the case, save where Subsection (3) applies. The regulations pertaining to statements of claims shall also apply to the requisites of said petitions.

(3) Where the petition asserts a fundamental legal issue, the Office shall formulate a written statement and submit it to the court together with the petition and the documents of the case within thirty days.

(4) If the petition referred to in Subsection (2) hereof is filed beyond the prescribed deadline, the court shall decide regarding any application for continuation.

(5)¹⁸⁴ The provisions of Subsections (5)-(17) of Section 57/C shall also apply to the judicial review of the decisions specified in Subsection (1) hereof.

(6)¹⁸⁵ Non-contentious proceedings opened under this Section shall be governed by the general rules of the Code of Civil Procedure, subject to the exceptions set out in this Act, and to the exceptions stemming from the special characteristics of non-contentious proceedings.

Proceedings for the Registration of Collective Rights-Management Bodies¹⁸⁶

Section 92/E.¹⁸⁷

(1) Proceedings for the registration of collective rights-management bodies are opened upon request.

(2) The documents certifying the fulfillment of the registration criteria must be enclosed with the applications. The documents shall contain the particulars, and the list of rightholders wishing to join the association or to conclude an individual agreement with the association for identification purposes, including the full name and address (registered office) of the members (rightholders).

(3) Compliance with the requirement set out in Subsection (4) of Section 92 may be verified - among others - by an agreement of the associations involved containing specific instruction as to which association is delegated to grant authorization - within the framework of compulsory or extended collective rights management - for use, or to enforce claims for remuneration in respect of the rights of those rightholders whom are not represented by either of such associations. Registration of the applicant shall also constitute approval of the agreement, and information concerning its contents shall be published by way of the means specified in Subsection (4).

(4) The Office shall publish the registration in the *Hivatalos Értesítő (Official Bulletin)*. The Office shall publish a notice in the *Hivatalos Értesítő* containing the names of the registered organizations and their collective rights management activities as frequently as deemed necessary, and in any event at least once a year.

Removal from the Register of Collective Rights-Management Bodies¹⁸⁸

¹⁸⁴ Established: by paragraph (1) Section 45 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹⁸⁵ Enacted: by paragraph (2) Section 45 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹⁸⁶ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁸⁷ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁸⁸ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

*Section 92/F.*¹⁸⁹

(1) A collective rights-management association shall be removed from the register upon request or *ex officio*.

(2) An association shall be removed from the register *ex officio* in the case defined in Paragraph d) of Subsection (6) of Section 92/K, and also if the association, or from the association's activities collective rights management, is deleted from the public register of civil society organizations by court order.

*Section 92/G.*¹⁹⁰

(1) Where a collective rights-management association that is engaged in the statutory collective management of rights is removed from the register, and if there is no other registered association that would be able to provide collective rights management, the Office shall post a notice on his website and also in at least two national daily newspapers to advise the rightholders affected to initiate the registration of their association in the register of collective rights-management associations within the deadline it has prescribed inside a one-year timeframe.

(2) Before the deadline referred to in Subsection (1) royalties shall be paid based on the rates applied by the excluded collective rights-management association by way of the means specified by the Office in the said notice. If registration of the new collective rights-management association is requested within the prescribed deadline, and if registration is effected, the royalties paid as per the above shall be distributed by the new collective rights-management association, failing this the Office shall appoint a collective rights-management association to distribute the royalties received following the deadline according to the distribution scheme in effect at the time of exclusion from the register.

(3) If registration in the register of collective rights-management associations - as prescribed by law - is not invoked inside the time limit specified in Subsection (1) hereof, the rightholders affected shall be deemed to have the right to license use individually insofar as the new collective rights-management association is registered.

(4) Where a collective rights-management association is excluded from the register, it shall be liable to distribute the royalties paid before the effective date of the exclusion among the rightholders affected according to the distribution scheme in effect at the time of exclusion.

Approval of Bills of Royalties Used in Collective Rights Management¹⁹¹

*Section 92/H.*¹⁹²

(1) Collective rights-management associations shall annually determine royalties and other conditions of use, in consideration of individual means of use, within the scope in which they are,

¹⁸⁹ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁹⁰ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁹¹ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁹² Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

according to the registration, entitled to engage in collective rights management, and shall send it to the Office by 1 September each year for the purpose of the process of approval under this Section (hereinafter referred to collectively as “bill of royalties”). The proposed date for introducing the bill of royalties shall be 1 January of the following year.

(2) The bill of royalties shall be established and applied in compliance with the principle of equal treatment, without undue discrimination among the users. The amount of remuneration shall be determined taking into account all relevant circumstances of the given use. In drawing up the bill of royalties and in the proceedings for the approval of the bill of royalties the agreement reached between the parties concerning the fees and other conditions for use in the proceedings of the Conciliatory Body (Sections 102-105) shall be taken into consideration.

(3) The bill of royalties shall be approved by the minister in charge of the judicial system on a recommendation by the Office following the procedure conducted according to Subsections (4)-(11). The bill of royalties may not be applied and may not be published in the *Hivatalos Értesítő (Official Bulletin)* before approval; approval, however, shall not exclude and shall have no bearing on the enforcement of other legislation in respect of the bill of royalties.

(4)¹⁹³ The bill of royalties shall have an explanation enclosed together with the underlying documents. In determining the amount of remuneration under Subsection (1) of Section 20, a representative survey on the potential impact of private reproduction shall be enclosed. The survey method shall be determined upon consultation with major users and their representative organizations. The results of the survey shall be made available to the parties attending the procedure on approval of the bill of royalties.

(5) The Office, upon receipt of the bill of royalties for approval, shall consult with the major users and their representative organizations and with the minister in charge of cultural affairs, and - in connection with the bill of royalties pertaining to public performances - with the minister in charge of trade and commerce, the minister in charge of tourism and the minister in charge of the hospitality industry. As regards the remuneration referred to in Sections 20-21, the parties liable for payment of the remuneration and their representative organizations shall be treated as users, or as the representative organizations of users. Consultations shall be carried out within sixty days following the time of delivery of the bill of royalties to the Office.

(6) The Office shall be required to consult the major user and/or user representative organization that has notified - in writing - its desire to participate in the consultation process to the Office in the given year, immediately upon submission of its bill of royalties based on the notice posted on the website of the Office, within fifteen days of the time of having the notice posted, with the statement referred to in Subsection (7) or (8) enclosed.

(7)¹⁹⁴ ‘Major user’ means a person who provides a statement to the collective rights-management association affected, when requested, to verify that the amount of royalties he has paid during the calendar year prior to the year of notification has reached 5 per cent of all royalties paid under the bill of royalties in question, or by any group of users specified in the bill of royalties in question.

(8)¹⁹⁵ ‘User representative organization’ means a legal person with registered members, carrying out its statutory functions nation-wide and whose activities cover the representation of

¹⁹³ Established: by paragraph (1) Section 46 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹⁹⁴ Established: by paragraph (2) Section 46 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹⁹⁵ Established: by paragraph (2) Section 46 of Act XVI of 2013. In force: as of 1. 04. 2013.

the users affected by way of assessment through consultation of the bills of royalties, furthermore, that is able to verify by way of a statement provided by the collective rights-management association at the request of the representative organization that membership of the representative organization is comprised of the users affected by the given bill of royalties, having paid at least 10 per cent of all royalties during the calendar year preceding the year of notification based on the bill of royalties in question, or 10 per cent of all royalties paid by any group of users specified in the bill of royalties in question.

(9) The collective rights-management association shall provide the statement specified in Subsection (7) or (8) immediately upon receipt of the user's or the user representative organization's request, and shall send the said statement to the requesting user or user representative organization, and to the Office as well.

(9a)¹⁹⁶ If the Office registers a multiple of collective rights-management bodies pursuant to Subsection (4) of Section 92, in the procedure for the first approval of the bill of royalties of a collective rights-management body registered subsequently, the definition of major user and user representative organization shall correspond to those treated as such for the purposes of the bill of royalties applied by the previously registered collective rights-management body during the previous year. In the procedure for the first approval of the bill of royalties of a newly registered collective rights-management body the statement under Subsection (7) or (8) is not required.

(10) The minister in charge of the judicial system shall grant approval for the bill of royalties if it is in conformity with copyright laws. The minister in charge of the judicial system shall grant approval by way of a resolution adopted within thirty days following the date of receipt of the Office's recommendation. The minister shall request the Government's decision for granting approval for such bill of royalties that contains an increase in royalties in excess of the customer price index published by the Központi Statisztikai Hivatal (*Central Statistics Office*) for the previous calendar year, or if it contains additional users subject to payment liability. The minister's resolution may not be appealed, it shall become operative upon delivery.

(11) The collective rights-management association shall publish the bill of royalties as approved, in the Hivatalos Értesítő in its own name. Up to this point in time, the bill of royalties in effect for the previous period - as published in the Hivatalos Értesítő - shall be applied also if the period for which the latter bill of royalties was established has expired in the meantime. These provisions shall also apply where the resolution adopted by the minister in charge of the judicial system for approval is annulled by final court decision under Section 92/J.

*Section 92/I.*¹⁹⁷

(1) Proceedings for the approval of bills of royalties shall not be treated as administrative proceedings, and shall not fall within the scope of the Act on the General Rules of Administrative Proceedings.

(2) In proceedings for the approval of bills of royalties the competent ministers, the Office and other parties to the proceedings shall communicate by way of electronic means. The Office shall

¹⁹⁶ Enacted: by paragraph (3) Section 46 of Act XVI of 2013. In force: as of 1. 04. 2013.

¹⁹⁷ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

communicate with collective rights-management associations, with users and user representative organizations by way of electronic means.

*Section 92/J.*¹⁹⁸

(1)¹⁹⁹ Judicial review of the resolution of approval adopted by the minister in charge of the judicial system may be requested by either of the bodies having entitlement for the assessment of the bill of royalties and by the collective rights-management association affected, alleging illegal conduct, and it shall be reviewed by the Fővárosi Közigazgatási és Munkaügyi Bíróság (*Budapest Court of Public Administration and Labor*) in non-contentious administrative proceedings under priority. In non-contentious proceedings Subsections (3) and (4) of Section 332 of Act III of 1952 on the Code of Civil Procedure shall not apply. If the court overturns the resolution and orders the minister in charge of the judicial system to reopen the case, the difference between the remuneration payable according to the new proceedings and the one payable according to the previous one shall be accounted for.

(2) If the resolution is contested, and if the petitioner is liable for payment of remuneration under the bill of royalties to which the resolution pertains, the court may order the petitioner to provide guarantees. The amount of guarantee shall cover the amount of the royalties that would be payable according to the bill of royalties approved by the contested resolution, or the amount disputed or yet unpaid, except if the court orders to have the amount reduced taking into account all circumstances of the case.

(3) Having regard to avoidance on the grounds of unfair contractual terms and conditions, the bill of royalties shall not be treated as being established on the strength of law, or such that have been contrived in accordance with statutory provisions. If the bill of royalties is contested in the court of law, the court - at the request of the collective rights-management association - may order the adverse party to provide guarantees. The amount of the guarantee shall be governed by the provisions of Subsection (2) hereof.

Supervision of Collective Rights Management Activities²⁰⁰

*Section 92/K.*²⁰¹

(1) Under the obligation to supervise collective rights management activities within the framework of regulatory control the Office shall check once a year, or as necessary, collective rights-management associations for compliance with the conditions of registration, as well as the provisions of the bylaws, distribution scheme, and other internal regulations for compliance with copyright regulations.

(2) In determining as to whether a collective rights-management body represents the majority of rightholders affected by the rights management activity it performs, after one year following

¹⁹⁸ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

¹⁹⁹ Established: by Section 47 of Act XVI of 2013. In force: as of 1. 04. 2013.

²⁰⁰ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

²⁰¹ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

the time of registration, applications for membership and letters of intent concerning the conclusion of representation contracts with nonresident collective rights-management bodies shall be ignored.

(3) Collective rights-management associations shall make the following documents available to the Office for the purpose of exercising control:

- a)* their bylaws;
- b)* their organizational and operational regulations;
- c)* their conditions of membership;
- d)* lists of the members of their administrative and representative bodies;
- e)* their distribution scheme;
- f)* their annual accounts;
- g)* their agreements with nonresident collective rights-management bodies on reciprocal representation.

(4)²⁰² Collective rights-management associations shall notify the Office in advance when calling the supreme organ - at the same time as the members are notified - in writing, with the agenda and documents on issues related to exercising control enclosed, and shall invite the Office's representative to the meeting for discussing issues related to exercising control.

(5) The Office may request collective rights-management associations to make a statement in the interest of disclosure of information for the purpose of exercising control. In oversight proceedings the Office may request an expert opinion and may hear an expert.

(6) Where the Office considers, in the course of exercising supervisory powers, non-compliance with the conditions of registration or any infringement of the regulations referred to in Subsection (1), the Office:

a) shall convey a warning for the potential legal consequences and advise the administrative and representative body of the collective rights-management association to satisfy the conditions for registration and to restore operation in accordance with copyright laws within the prescribed deadline;

b) shall contact the competent public prosecutor's office for implementation of the measures within its judicial supervisory competence against the association in question;

c) may impose a supervisory fine in the event of non-compliance within the time limit prescribed in Paragraph *a)*;

d) exclude the collective rights-management association from the register and publish this action in the Hivatalos Értesítő:

da) if the supervisory measure did not, or is not expected to produce the results desired,

db) in the event of non-compliance with the deadline referred to in Paragraph *a)* and the supervisory fine is unlikely to produce the results desired, or

dc) the supervisory fine - imposed on one or several occasions - did not produce the results desired.

(7)²⁰³ If the minister in charge of the judicial system - acting in a capacity connected to the bill of royalties of collective rights-management associations - considers that an infringement of the laws and regulations referred to in Subsection (1) has been committed, the minister shall request the Office to initiate supervisory measures. If the President or Vice President of the NKA - acting

²⁰² Established: by Section 48 of Act XVI of 2013. In force: as of 1. 04. 2013.

²⁰³ Established: by Section 21 of Act CLIX of 2013. In force: as of 1. 01. 2014.

in a capacity connected to the use of revenues of collective rights-management associations from royalties and other sources [Subsections (11) and (11a) of Section 89] - considers that an infringement of the laws and regulations referred to in Subsection (1) has been committed, they shall request the Office to initiate supervisory measures.

(8)²⁰⁴

*Section 92/L.*²⁰⁵

(1) The amount of the supervisory fine shall be determined taking into account all circumstances of the case, in particular the gravity and recurrence of the infringement, the duration of the illegal conduct under the requirement of effectiveness and the principle proportionality. The supervisory fine imposed shall not exceed the amount of supervisory fine calculated for the previous year, times five.

(2) Fines shall be due and payable within fifteen days following the date of delivery of the ruling imposing the fine.

(3) In the event of late payment of the fine a default penalty shall be charged according to the relevant provisions of the Act on the Rules of Taxation.

(4) Fines and any applicable default interest shall be enforced as taxes.

*Section 92/M.*²⁰⁶

(1)²⁰⁷ Collective rights-management associations shall be required to pay an annual supervision fee to the Office for covering the costs of the operations of the Office incurred in connection with its activities related to collective rights management activities.

(2) The supervision fee shall be 0.3 per cent of the collective rights-management association's net revenue from the previous year. The supervision fee shall be due and payable by the last day of the second calendar quarter. In connection with new collective rights-management associations, the supervision fee payable for the year when registered shall be 0.3 per cent of the net revenues estimated for the year. In this case the supervision fee shall be due and payable by the last day of the second calendar quarter following the year to which it pertains.

*Section 92/N.*²⁰⁸

(1) Subject to the exceptions set out in this Act, in proceedings related to the supervision of collective rights-management associations the Office shall proceed in accordance with the provisions of the Act on the General Rules of Administrative Proceedings.

²⁰⁴ Repealed: by subparagraph c) Section 27 of Act CLIX of 2013. No longer in force: as of 1. 01. 2014.

²⁰⁵ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

²⁰⁶ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

²⁰⁷ Amended: by subparagraph j) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013. The change does not effect the English version.

²⁰⁸ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

(2) In proceedings related to the supervision of collective rights-management associations the provisions of the Act on the General Rules of Administrative Proceedings pertaining to curators *ad litem* and public hearings, to drawing up control plans and making control reports and to prior notification of site inspection shall not apply, including the provisions pertaining to notification concerning the opening of *ex officio* proceedings and notice for establishing contact, as well as the publication of final and binding resolutions and those declared enforceable irrespective of any appeal, and the provisions pertaining to records maintained in the interest of inspections. In such proceedings the decisions of the Office may not be appealed, and no petition for reopening the case or oversight proceeding, or objection by the prosecution may be filed.

(3) The detailed regulation for the supervision of collective rights-management associations shall be decreed by the Government.

*Section 92/O.*²⁰⁹

(1)²¹⁰ In proceedings concerning the supervision of collective rights-management associations, the Office and collective rights-management associations shall be required to communicate by way of electronic means.

(2) The Office shall communicate with collective rights-management associations by way of electronic means according to Subsections (2)-(8) of Section 92/B.

*Section 92/P.*²¹¹

(1) In proceedings for the supervision of collective rights-management associations the following shall be reviewed by the court in non-contentious proceedings:

a) resolution adopted by the Office, and

b) the Office's ruling on the refusal to grant client status to a client other than the one having submitted a request for the opening of proceedings, for the suspension of proceedings, for imposing an administrative penalty, and the ruling for the refusal or restriction of the inspection of files, which can be appealed independently according to the Act on the General Rules of Administrative Proceedings.

(2)²¹² Subsections (2)-(6) of Section 92/D shall also apply to the non-contentious proceedings referred to in Subsection (1) hereof.

(3)²¹³ Non-contentious proceedings opened under this Section shall be governed by the general rules of the Code of Civil Procedure, subject to the exceptions set out in this Act, and to the exceptions stemming from the special characteristics of non-contentious proceedings.

Chapter XIII

²⁰⁹ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

²¹⁰ Amended: by Section 55 of Act XVI of 2013. In force: as of 1. 04. 2013.

²¹¹ Enacted: by Section 35 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

²¹² Amended: by subparagraph k) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

²¹³ Enacted: by Section 49 of Act XVI of 2013. In force: as of 1. 04. 2013.

CONSEQUENCES OF COPYRIGHT INFRINGEMENT

Consequences under Civil Law

*Section 94*²¹⁴

(1) In the event that his rights are infringed the author may - in accordance with the circumstances of the case - lodge the following civil law claims:

- a)* he may demand a court ruling establishing that there has been an infringement of rights;
- b)* he may demand that the infringement of rights be terminated and that the infringer be enjoined to cease any further infringement of rights;
- c)* he may demand that the infringer make amends for his action - by declaration or in some other appropriate manner - and, if necessary, that such amends should be given due publicity by and at the expense of the infringer;
- d)* he may demand that the infringer provide information on parties taking part in the manufacture of and trade in goods or performance of services affected by the infringement of rights, as well as on business relationships established for the use of the infringer;
- e)* he may demand restitution of the economic gains achieved through infringement of rights;
- f)* he may demand that the infringement be terminated, the antecedent state of affairs be restored, and the seizure of those assets and materials used exclusively or primarily in the infringement of rights, as well as of the goods infringing on the rights, or demand that they are delivered to a particular person, recalled and definitively withdrawn from commercial circulation, or destroyed.

(2) In the event of copyright infringement the author may demand compensation for damages in accordance with the provisions of civil liability.

(3) The author may seek the remedy referred to in Paragraph *b)* of Subsection (1) against a person whose services are being used in connection with the copyright infringement.

(4) The author may seek the remedy referred to in Paragraph *d)* of Subsection (1) against a person who:

- a)* was found in possession of the infringing goods on a commercial scale;
- b)* was found to be using the infringing services on a commercial scale;
- c)* was found to be providing on a commercial scale services used in infringing activities;
- d)* was indicated by the person referred to in Paragraphs *a)-c)* as being involved in the production, manufacture or distribution of the goods or the provision of the services.

(5) In the application of Paragraphs *a)-c)* of Subsection (4), acts carried out on a commercial scale are those where the nature and quantity of the goods or services involved clearly indicate that they are carried out for direct or indirect economic or commercial advantage. Pending proof to the contrary, the definition of acts carried out on a commercial scale would normally exclude acts carried out by end consumers acting in good faith.

(6) Pursuant to Paragraph *d)* of Subsection (1) and to Subsection (4) the infringer or the person referred to in Subsection (4) may be compelled to furnish the following information:

- a)* the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services involved in the copyright infringement, as well as the intended wholesalers and retailers or those actually involved;

²¹⁴ Established: by Section 23 of Act CLXV of 2005. In force: as of 15. 04. 2006.

b) information on the quantities produced, manufactured, delivered, received or ordered, as well as the price paid or received for the goods or services in question.

(7) Upon request by the author, the court may order that the assets, materials, goods and packaging materials seized, or recalled and withdrawn from commercial circulation be deprived of the infringing nature, and that they be destroyed if such removal is not possible. Under justified circumstances the court may also order, instead of destruction, sale of the seized assets and materials in accordance with the regulations of judicial enforcement, and in this case shall determine the disposition of the proceeds from such sale.

(8) Assets and materials used in the copyright infringement and goods and packaging materials infringing on a right may also be impounded if such articles are not in the possession of the infringer, but the owner of the articles was aware of the infringement or could have been aware of such with proper circumspection.

(9) The court shall order that the measures referred to in Paragraph *f)* of Subsection (1) and in Subsection (7) be carried out at the expense of the infringer, unless particular reasons are invoked for not doing so. The court's ruling for the recall and definitive removal from the channels of commerce, or destruction of the infringing goods shall be adopted, taking into account the interests of third parties and it shall be proportional according to the seriousness of the infringement.

(10) The court may order, at the request of the author and at the expense of the infringer, appropriate measures for the dissemination of the information concerning the decision. The mode of dissemination shall be decided by the court. Dissemination shall include publication in a national newspaper or display on the internet.

(11)²¹⁵ Where the rightholder moves - in accordance with Subsection (8) of Section 35 - to enforce any claim under Paragraph *e)* of Subsection (1) or under Subsection (2), in determining the extent of unfair profits or the amount of damages, the amount of royalties paid in connection with the blank video and audio media used for reproduction as due shall be taken into account.

*Section 94/A*²¹⁶

(1) In court actions instituted due to infringement of a copyright, temporary measures shall be considered necessary - unless there is any evidence presented to prove otherwise - for the special protection of the petitioner's rights, if the petitioner can prove that the work is copyrighted and that he or she is the author, the author's heir at law or a licensed user of the work, or a collective copyright management organization, and is entitled to file for court proceedings due to infringement in his own name.

(2) Subsection (1) shall not apply if the copyright infringement has commenced more than six months before, or if a period of sixty days has passed since the petitioner gained knowledge of the infringement and of the identity of the infringer.

(3) A request for provisional measures may be lodged before filing for court action in connection with a copyright infringement, and it shall be adjudged by the court in nonlitigious proceedings. Nonlitigious proceedings relating to provisional measures shall be governed by the provisions of this Act and the general rules of the CPC, subject to the exceptions stemming from

²¹⁵ Enacted: by Section 18 of Act CXII of 2008. In force: as of 01. 02. 2009.

²¹⁶ Enacted: by Section 24 of Act CLXV of 2005. In force: as of 15. 04. 2006.

the special characteristics of nonlitigious proceedings. If the applicant has filed charges in accordance with Subsection (7) in connection with the copyright infringement, the court costs of the lawsuit shall be due and payable in addition to the fees paid for the nonlitigious proceedings.

(4) The author - apart from the civil claims available in connection with infringements - may request the court to order, under the conditions applicable to provisional measures:

a) protective measures in accordance with the provisions laid down in the Act on Judicial Enforcement, if able to verify that any subsequent attempt for the recovery of profits made by the infringement of copyright or the payment of damages is in jeopardy, and the infringement is carried out on a commercial scale [Subsection (5) of Section 94];

b) the infringer to give notification of and to present bank, financial or commercial information and documents for the purpose of ordering the protective measures referred to in Paragraph *a)*;

c) the provision of security if in exchange - in lieu of demanding the termination of the infringement - the author agrees for the infringer to continue the alleged acts of infringement.

(5) The court may order the provision of security as referred to in Paragraph *c)* of Subsection (4) in the absence of any request on the part of the author, provided that the author has filed charges for termination of the infringement and it was turned down by the court.

(6) The court shall adopt a decision on provisional measures in expedited proceedings, not to exceed fifteen days following presentation of a petition for such measures. The court of second instance shall adjudge appeals against court decisions on provisional measures in expedited proceedings, not to exceed fifteen days following the date of lodging the appeal.

(7) The court shall, upon request of the other party, revoke its decision for provisional measures - including Subsections (4) and (5) - adopted prior to the filing of charges, if the author does not file charges for copyright infringement leading to a decision on the merits of the case regarding damages secured by the provisional measures, within fifteen days of being notified of the decision. The court shall adopt a decision for abolishing the provisional measures in expedited proceedings, not to exceed fifteen days following the date of submission of the request.

(8) Where the author in a copyright infringement action has already substantiated its statements to a reasonable extent, upon the request of the party providing proof, the court may require the other party:

a) to present and allow for review of the documents and other physical evidence in his possession;

b) to give notification of and to present bank, financial or commercial information and documents in his possession if the infringement is carried out on a commercial scale [Subsection (5) of Section 94].

(9)²¹⁷ Preliminary evidence may be presented before court proceedings are instituted if the author has already substantiated the infringement or threat of infringement to a reasonable extent. If the lawsuit has not yet been launched, preliminary evidence may be requested at the general court of jurisdiction by reference to the author's residence or at the court where the taking of evidence can be executed most expeditiously. The decisions ordering preliminary evidence may be appealed.

(10) The court shall, upon request of the other party, revoke its decision for preliminary evidence if the author does not file charges for copyright infringement within fifteen days from the date of the resolution ordering preliminary evidence. The court shall adopt a decision for

²¹⁷ Amended: by subparagraph b) Section 184 of Act CCI of 2011. In force: as of 1. 01. 2012.

abolishing the resolution ordering preliminary evidence in expedited proceedings, not to exceed fifteen days following the date of submission of the request.

(11) Where any delay is likely to cause irreparable harm, it shall be treated as a case of extreme urgency, and provisional measures - including Subsections (4) and (5) - may be ordered without the other party having been heard. Where any delay is likely to cause irreparable harm or where there is a demonstrable risk of evidence being destroyed, it shall be treated as a case of urgency, and preliminary evidence may be ordered without the other party having been heard. Where any decision is adopted without the other party having been heard, the other party shall be given notice when the decision is executed. Upon being notified of the decision the other party affected may request to be heard and may request that the decision ordering the provisional measures or the preliminary evidence be modified or revoked.

(12) The court may require the provision of security in connection with the presentation of preliminary evidence and - with the exception of Paragraph *c*) of Subsection (4) and Subsection (5) - in connection with the ordering of provisional measures.

(13) If, in the cases specified in Paragraph *c*) of Subsection (4), Subsection (5) and Subsection (12), the party who is entitled to seek satisfaction from the security fails to enforce his claim within three months from the operative date of the judgment for abolishing the ruling adopted in connection with preliminary evidence or provisional measures or the verdict (summary judgment), the depositor of the security may request the court to release the security.

*Section 94/B.*²¹⁸

(1) Pending proof to the contrary, for the author to be regarded as such it shall be sufficient for his/her name to appear on the work in the usual manner.

(2)²¹⁹ Where Subsection (1) does not apply, pending proof to the contrary, the person under whose name the work is registered by the Office (*Hungarian Intellectual Property Office*) in the voluntary register of works shall be regarded as the author, if able to substantiate it with a public document. Registration shall be subject to an administrative service fee.

(3)²²⁰ Where Subsection (2) does not apply, pending proof to the contrary, for a person to be regarded as the author it shall be substantiated with a private document with full probative force issued by a collective rights management association relying upon the database containing works, performances under subsidiary rights and rightholders under collective rights management. These private documents are issued by collective rights management associations on a voluntary basis to their own members, upon request, consistent with their bylaws.

(4) Where Subsection (3) does not apply, pending proof to the contrary, the person who first published the work shall be regarded the author.

Protection Against the Circumvention of Technological Measures

²¹⁸ Enacted: by Section 24 of Act CLXV of 2005. In force: as of 15. 04. 2006.

²¹⁹ Established: by Section 22 of Act CLIX of 2013. In force: as of 25. 10. 2013.

²²⁰ Amended: by paragraph (4) Section 43 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

Section 95²²¹

(1) The consequences of copyright infringement shall apply to all acts that enable or facilitate unlawful circumvention of effective technical measures designed to provide copyright protection, provided the person performing the acts referred to knows or, with the due care expected in the given situation, has reasonable grounds to know that the aim of these acts is the circumvention of the technical measure.

(2) The consequences of copyright infringement shall apply to all acts, such as the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services that

a) are promoted, advertised or marketed for the purpose of circumvention of any effective technical protection;

b) have only a limited commercially significant purpose or use other than to circumvent effective technical protection; or

c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technical protection.

(3) For the purposes of Subsections (1) and (2), ‘technical measures’ shall mean any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts and are not authorized by the copyright holder. Technical measures shall be deemed ‘effective’ where the use of a protected work is controlled by the rightholders through application of an access control or protection process such as encryption, scrambling or other transformation of the work or a copy control mechanism that achieves the protection objective.

(4) The provisions of Subsections (1) and (2) shall apply without prejudice to what is contained in Section 59 and Subsections (1)-(3) of Section 60. With respect to software, Subsection (2) shall apply only in connection with the distribution of equipment, product or component, or for their possession for commercial purposes, whose only intended purpose is to enable or facilitate the unauthorized removal or circumvention of the technical means installed for the protection of the software.

Section 95/A²²²

(1) In relation to copying for private purposes [Subsection (1) of Section 35] by means of reproduction [Subsection (1) of Section 21], and the cases of free use mentioned under Subsection (2) of Section 34, Subsections (4) and (7) of Section 35 and Section 41, the person to whom free use has been granted may demand that the rightholder provides free use by allowing an exception from the technical measures installed for protection under Section 95, provided that the beneficiary of free use has legal access to the work in question. If there is no agreement between the parties laying down the conditions for free use, either of the parties may launch a request for a proceeding under Section 105/A.

²²¹ Established: by Section 78 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

²²² Enacted: by Section 79 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

(2) Subsection (1) shall not apply with respect to any work that has been made available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them [Subsection (8) of Section 26, Paragraph *e*) of Subsection (1) of Section 73, Paragraph *c*) of Subsection (1) of Section 76, Paragraph *d*) of Subsection (1) of Section 80, Paragraph *c*) of Subsection (1) of Section 82].

Protection of Rights Management Data

Section 96

(1)²²³ The consequences of copyright infringement must be applied to the unauthorized removal or alteration of rights management data as well as to the unauthorized distribution, importation for distribution, broadcast, or transmission to the public in a different manner of works from which the rights management data have been removed or on which such data have been altered without authority, supposing that the person performing any of the acts referred to knows or, with the due care expected in the given situation, has reasonable grounds to know that the acts unlawfully enable or facilitate the infringement of copyright or induce others to commit such infringement.

(2) Rights management data are all particulars provided by the owners of rights that identify the work, the author of the work, the owner of any right in the work, or inform about the terms and conditions of the use of the work, including any numbers or codes that represent such information, when such data are attached to a copy of the work or are made perceptible in connection with the transmission of the work to the public.

Consequences of Copyright Infringement under Customs Law

Section 97²²⁴

In the case of the infringement of copyright, the author may, with reference to the provisions of a special statute, require the customs authorities to take measures to prevent the dutiable goods affected by the infringement of rights from being put into circulation.

Legal Consequences of Licensed Use

Section 98

(1)²²⁵ If the economic rights of an author are infringed, the owner of the exclusive right of use, as acquired pursuant to Subsection (1) of Section 43, may advise the author to take the necessary

²²³ Established: by Section 80 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

²²⁴ Amended: by Section 89 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

²²⁵ Amended: by Section 25 of Act CLXV of 2005. In force: as of 01. 01. 2006. May be applied to proceedings started after this date.

measures to stop the infringement. If the author fails to take action within 30 days of receiving this advice, the owner of the aforementioned right may proceed on his own behalf to stop the infringement.

(2) In the case of a license for nonexclusive use, the licensee may take action according to Subsection (1) only if it is expressly stipulated in the use contract.

Consequences of the Infringement of Certain Rights Related to Copyright²²⁶

Section 99²²⁷

The provisions of Sections 94-98 must be duly applied in the event of the infringement of the provisions of Chapters XI and XI/A and to the protection of the technological measures and rights management data provided for in those Chapters. For the purposes of Chapter XI/A, the cases of free use specified in Subsection (1) of Section 95/A shall be construed to mean the copying for private purposes by means of reproduction [Subsection (1) of Section 21] referred to in Subsection (1) of Section 84/C and the cases of free use referred to in Subsections (2) and (3) of Section 84/C.

PART FIVE

MISCELLANEOUS AND CLOSING PROVISIONS

Chapter XIV

PAYMENT OF CONTRIBUTIONS AFTER THE EXPIRATION OF THE DURATION OF COPYRIGHT PROTECTION

Section 100

(1)²²⁸ After the expiration of the duration of copyright protection, a contribution must be paid when the right of ownership of an original work of art is transferred with the cooperation of an art dealer.

(2)²²⁹ The rate of contribution shall be four per cent of the sale price, exclusive of taxes and other public dues. The provisions of Section 70 shall also apply to determining the scope of

²²⁶ Established: by Section 10 of Act LXXVII of 2001. In force: as of 1. 1. 2002. Shall apply to the authorization agreements concluded subsequently.

²²⁷ Amended: by Section 81 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Amended: by Section 26 of Act CLXV of 2005. In force: as of 01. 01. 2006. May be applied to proceedings started after this date.

²²⁸ Established: by Section 2 of Act CVIII of 2005. In force: as of 01. 01. 2006.

²²⁹ Established: by Section 36 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

original works of art and the selling price, as well as to the persons liable to pay contributions, the amount, collection and remission of contributions, with the exception that the collective rights management organization will use the contributions received to support creative activity and contribute to the social welfare of creative artists.

(3)²³⁰ No contribution shall be paid in connection with the transfer of title to an original work of art if the title is obtained by or from a museum.

(4)²³¹ The collective rights management organization shall be obliged to record and administer under a separate head the amount collected as contributions.

(5)²³² Collective rights-management associations shall annually inform the general public on the amounts and the uses of the contributions via the official website of the Office, and shall submit the related notice to the Office by the end of the second quarter following the year to which it pertains.

Chapter XV

ORGANIZATIONS COOPERATING IN THE SETTLEMENT OF COPYRIGHT RELATED LEGAL DISPUTES

Copyright Board

Section 101

(1)²³³ The courts of justice and other authorities may consult the Copyright Board attached to the Office in order to request their opinion in matters that arise in copyright-related litigation. The members of the Copyright Board are appointed for a five-year term by the minister in charge of the judicial system in agreement with the minister in charge of cultural affairs.

(2)²³⁴

(3) Upon request, the Copyright Board can also give advisory opinions in out-of-court procedures on issues connected with the exercise of the right of use.

(4)²³⁵ If the opinion of the Copyright Board is requested by a court or any other authority, a copy of the ruling of the case shall be sent to the Board as well.

²³⁰ Enacted: by Section 2 of Act CVIII of 2005. In force: as of 01. 01. 2006.

²³¹ Numbering amended: by Section 2 of Act CVIII of 2005. In force: as of 01. 01. 2006.

²³² Established: by Section 37 of Act CLXXIII of 2011. In force: as of 1. 01. 2012. Amended: by subparagraph l) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

²³³ Amended: by subparagraph i) paragraph (5) Section 170 of Act CIX of 2006. In force: as of 01. 01. 2007. Amended: by paragraph (1) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

²³⁴ Repealed: by paragraph (5) Section 43 of Act CLXXIII of 2011. No longer in force: as of 1. 01. 2012.

²³⁵ Enacted: by Section 82 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

(5)²³⁶ A separate statute will determine the specific organizational and operating rules for the Copyright Board.

Arbitration Board

Section 102²³⁷

In the absence of an agreement between the user and the rightholder or between the users or their representative organization and the collective rights-management association of the rightholders concerning the fees and other conditions for use, either of the parties may submit the case by mutual consent to the Conciliatory Body created under Section 103.

Section 103

(1) The provisions of Chapter II of Act LXXI of 1994 On Arbitration apply to the setting up of the Arbitration Board with the understanding that the members of the Arbitration Board are to be appointed from among the members of the Copyright Board (Section 101).

(2) The Arbitration Board operates within the Copyright Board.

Section 104

(1)²³⁸ The proceedings of the Arbitration Board are aimed to assist in reaching an agreement between the parties. The Conciliatory Body shall forthwith notify the minister in charge of the judicial system, the minister in charge of cultural affairs and the Office of any proceeding it conducts in connection with a dispute concerned with collective rights management.

(2) If no agreement can be reached among the parties, the Arbitration Board will draft a proposal concerning the contents of the agreement, which it will communicate to the parties in writing.

(3) The parties can accept the agreement explicitly or tacitly. If no objection is made by the parties to the Arbitration Board with regard to the proposal for agreement within three months from the date of its delivery, a case of tacit understanding obtains.

(4) If the Arbitration Board has proceeded by violating the provisions of Section 105, the party having sustained injury may bring an action before the Court against the agreement established by the decision of the Arbitration Board within three months from its entry into force.

²³⁶ Numbering amended: by Section 82 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

²³⁷ Established: by Section 38 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

²³⁸ Established: by Section 21 of Act CXII of 2008. In force: as of 01. 02. 2009. Shall apply to proceedings opened after the time of this Act entering into force. Insofar as the collective rights-management body publishes the bill of royalties in the Hivatalos Értesítő following approval, the bill of royalties in effect for the previous period - as published in the Magyar Közlöny previously - shall be applied also if the period for which the latter bill of royalties was been established has expired in the meantime. Amended: by Section 39 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

(5)²³⁹ The proceeding referred to in Subsection (4) shall fall under the competence and exclusive jurisdiction of the Fővárosi Törvényszék (Budapest Metropolitan Court).

Section 105

(1) Equal treatment must be given to the parties during the proceedings of the Arbitration Board, and all parties shall have the opportunity to present their positions. The Arbitration Board may not compel the parties' involvement in the proceedings, their initiation of the acts of proceedings unless the parties have agreed thereto. As regards other matters, the Arbitration Board establishes its procedural rules itself - within the framework of the bylaws cited in Subsection (2) - and determines its tariff.

(2)²⁴⁰ The bylaws of the Arbitration Board are stipulated by the Copyright Board and approved by the minister in charge of the judicial system. Prior to approval, the minister supervising the Office and the minister in charge of cultural affairs shall be consulted.

Section 105/A²⁴¹

(1) If the beneficiary of free use and the rightholder fail to reach an agreement as to the conditions of exception (Section 95/A) from the protection afforded by technical measures (Section 95), either of the parties may submit the case to the Arbitration Board.

(2) The proceeding referred to in Subsection (1) may be launched by the beneficiaries' representative organizations as well, in which case the agreement concluded by decision of the Arbitration Board shall apply - unless stipulated to the contrary - only to the members of the representative organizations who benefit from the free use to which the agreement pertains.

(3) The Arbitration Board shall be formed in accordance with the provisions of Section 103. Members of the Arbitration Board shall be appointed by the Chairman of the Copyright Board if the parties concerned fail to agree in delegating the members of the Arbitration Board within eight days from the date of commencement of the proceeding.

(4) The provisions contained in Subsections (1) and (2) of Section 104 and Subsection (2) of Section 105 shall duly apply to proceedings of the Arbitration Board.

²³⁹ Enacted: by paragraph (2) Section 84 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union. Amended: by subparagraph c) Section 184 of Act CCI of 2011. In force: as of 1. 01. 2012.

²⁴⁰ Established: by Section 22 of Act CXII of 2008. In force: as of 01. 02. 2009. Shall apply to proceedings opened after the time of this Act entering into force. Insofar as the collective rights-management body publishes the bill of royalties in the Hivatalos Értesítő following approval, the bill of royalties in effect for the previous period - as published in the Magyar Közlöny previously - shall be applied also if the period for which the latter bill of royalties was been established has expired in the meantime. Amended: by paragraph (1) Section 151 and Section 152 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

²⁴¹ Enacted: by Section 85 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

(5) A proposed agreement may be accepted by the parties explicitly or tacitly. If no objection is made by the parties to the Arbitration Board with regard to the proposal for agreement within thirty days from the date of its delivery, a case of tacit understanding obtains.

(6) If the Arbitration Board has proceeded by violating the provisions of Section 105, the party having sustained injury may bring an action before the court against the agreement concluded under the proposal of the Arbitration Board within thirty days from the date when it is executed.

(7) If no agreement is reached under Subsection (5), the beneficiary of free use may file for court action within 15 days from the time limit specified in Subsection (5) and request a court decision ordering the rightholder to allow access for free use under the conditions stipulated in the claim.

(8) The representative organizations of beneficiaries may also initiate court action under Subsections (6) and (7) within the same time limits, where the final decision shall apply to all members of these organizations construed beneficiaries within the meaning of this Act.

(9)²⁴² The Fővárosi Törvényszék (Budapest Metropolitan Court) shall have exclusive jurisdiction to hear the lawsuits filed under this Section.

(10) The technical measures to be enforced based on an agreement reached or a final decision adopted under this Section shall be subject to the provisions of Section 95, provided that the technical measure is in conformity with the conditions laid down in Subsection (3) of Section 95.

Chapter XVI

CLOSING PROVISIONS

Other Owners of Rights Under Copyright

Section 106

(1) Wherever „author” is mentioned in this Act, the author’s heir at law or successor and other owners of rights under the copyright are duly construed to be included.

(2) If the estate of a deceased person includes a copyright, the notary public shall notify the collective rights management organization concerned with the works of the deceased person concerning the initiation of probate. If the concerned collective rights management organization cannot be identified or the works do not fall within the scope of collective rights management, the notification shall be addressed to the collective rights management organization for literary and musical works.

(3) In appropriately applying Subsection (2), the notary public sends one copy of the abridged grant of probate and the Court sends one copy of the abridged final judgment to the concerned collective rights management organization notifying it of the transfer to the heir of the copyright forming part of the estate.

(4) The rules relating to grants of probate and final judgments shall apply to the abridged grant of probate and abridged final judgment with the understanding that they can only include information concerning the transfer to the heir of the copyright forming part of the estate.

²⁴² Amended: by subparagraph c) Section 184 of Act CCI of 2011. In force: as of 1. 01. 2012.

(5) The abridged grant of probate and abridged final judgment referred to in Subsection (3) include, over and above what is provided by Subsection (4), the designation „abridged” as well as the purpose for which they can be used.

(6) It is necessary to proceed in accordance with Subsection (5) even if the grant of probate includes no provision other than that prescribed in Subsection (4).

(7) The concerned collective rights management organization is obliged to keep records on the heirs and disclose data therefrom to users within the limits laid down by law for the protection of personal particulars.

(8)²⁴³ The provisions of Subsections (1)-(7) shall be duly applied to the rights related to copyright and to the holders of such rights.

Section 106/A²⁴⁴

The provisions of this Act relating to the copyright protection of makers of databases recognized as compilations and of authors of databases, and to their protection under Chapter XI/A, shall be without prejudice to the legislation on the protection of personal data and access to information of public interest.

Entry into Force of this Act and Regulations Governing Transitory Provisions

Section 107

(1) This Act enters into force on July 1, 1999. Its provisions apply to use contracts concluded after it enters into force.

(2) The provisions set forth in Section 21 of this Act and the provisions in Section 22 pertaining to reproduction equipment shall be applied as of September 1, 2000.

(3) The provisions stated in Subsections (1) and (2) of Section 111 must be applied to execution proceedings initiated after this Act enters into force.

Section 108

(1) The provisions of Section 31, among others, must be applied to works whose duration of copyright protection calculated according to the provisions previously in force had expired before the entry into force of Act VII of 1994 On the Amendment of Certain Copyright and Industrial Right Protection Statutes.

(2) The rights prescribed by this Act are due to performers, the producers of phonograms, radio and television organizations, and carriers transmitting their own programs by cable to the public even if the twenty-year period - relating to them - calculated from the end of the year referred to by Section 84 had expired by the time of the entry into force of Act VII of 1994.

²⁴³ Established: by Section 27 of Act CLXV of 2005. In force: as of 01. 01. 2006. May be applied to proceedings started after this date.

²⁴⁴ Enacted: by Section 11 of Act LXXVII of 2001. In force: as of 1. 1. 2002. Shall apply to the authorization agreements concluded subsequently.

(3) If the duration of copyright protection relating to the authors' economic rights and the subsidiary rights related to the copyright had expired by the time of the entry into force of Act VII of 1994, the uses performed in the period between the expiration and the time of the entry into force of this Act are considered free use, irrespective of whether these rights will again come under protection following the entry into force of this Act.

(4) The uses stipulated in Subsection (3) can be continued for one more year following the entry into force of this Act, but only to the extent existing at the time of the entry into force. The rights in such uses performed within the framework of economic activity may only be transferred jointly with the authorized economic organization or the organizational unit thereof performing the use. An equitable remuneration is due to the owners of rights for any use performed even after the entry into force of this Act.

(5) The provisions of Subsection (4) must be applied as appropriate even if considerable preparations have been made for use prior to the date of the promulgation of this Act with the understanding that in this case the use may be begun and carried on to the extent of the preparation that exists at the time this Act is promulgated.

(6) Alterations, adaptations, and translations performed in the period of time referred to in Subsection (3) are regarded as if they had been performed with the authorization of the author.

(7) For use after the entry into force of this Act of the alterations, adaptations, and translations referred to in Subsection (6) an equitable remuneration is due to persons who own copyrights in the works serving as the basis for the actions mentioned.

(8) Any disputes concerning remuneration considered as due on the basis of the provisions of Subsections (3) and (7) must be settled by judicial means.

(9) Use rights acquired through use contracts concluded prior to the entry into force of Act VII of 1994 for the full duration of copyright protection or for an indefinite period of time are due to the user - under the terms and conditions of the use contract - after the entry into force of this Act, if the copyright or the subsidiary right related to the copyright again comes under protection pursuant to this Act.

Section 108/A²⁴⁵

(1)²⁴⁶ Subject to the exception mentioned in the first sentence of Subsection (7) of Section 13 of Act LXXVII of 2001, the provisions of Sections 31 and 84 shall apply to works and other subject matter that was still under protection in at least one Member State of the European Economic Area as on 1 July 1995.

(2) The provisions of Subsections (3)-(9) of Section 108 shall apply *mutatis mutandis* to the works referred to in Subsection (1) with the exception that the entry into force and promulgation of Act VII of 1994 and this Act shall be understood for the purposes of Subsection (1) to mean the entry into force and promulgation of the act promulgating the treaty on Hungary's accession to the European Union.

²⁴⁵ Enacted: by Section 86 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

²⁴⁶ Established: by paragraph (4) Section 7 of Act LXIX of 2004. In force: as of 10. 07. 2004.

*Section 109*²⁴⁷

Subsection (6) of Section 31 of this Act, as established by Act XVI of 2013 on the Amendment of Certain Acts Concerning Intellectual Property, shall apply if it does not result in any reduction in the term of protection calculated according to the provisions in effect before the time of this Act entering into force. Subsection (6) of Section 31 of this Act, as established by Act XVI of 2013 on the Amendment of Certain Acts Concerning Intellectual Property, shall also apply to cinematographic works whose duration of protection has already expired prior to the entry into force of this Act. Subsections (3)-(9) of Section 108 shall apply in this case as well, with the proviso that the entry into force of this Act must be construed as the entry into force of Act VII of 1994.

*Section 109/A.*²⁴⁸

Subsections (2) and (4) of Section 90 and Subsections (4)-(6) of Section 93 of this Act, as established by Act CXLVIII of 2010 on the Amendment of Regulations Concerning Act XLII of 2010 on the Ministries of the Republic of Hungary and on the Amendment of Regulations Relating to Industrial Property Rights, shall apply to procedures for the approval of bills of royalties opened after 1 January 2011.

*Section 110*²⁴⁹

(1) The provisions of Subsection (13) of Section 89 of this Act, as established by Act CLXXIII of 2011 on the Amendment of Certain Acts Concerning Intellectual Property, shall for the first time apply to financial reports prepared for 2012.

(2) Collective rights-management associations shall notify the Office on their fulfillment of the conditions set out in Subsection (1) of Section 92 of this Act, as established by Act CLXXIII of 2011 on the Amendment of Certain Acts Concerning Intellectual Property, by 1 May 2012 with the final court ruling on acknowledgement of the amendment of the bylaws, and the bylaws attached.

*Section 111.*²⁵⁰

(1) The provisions of this Act, as established by Act LXXVII of 2001 on the Amendment of Act LXXVI of 1999 on Copyright, relating to the protection of makers of databases shall also apply to the databases made between 31 December 1982 and 1 January 2002, provided that on 1 January 2002 they satisfied the conditions for protection specified in Chapter XI/A, as established by Act LXXVII of 2001 on the Amendment of Act LXXVI of 1999 on Copyright. Rights of the makers of such databases shall be safeguarded from 1 January 2002 until 1 January 2013.

²⁴⁷ Established: by Section 50 of Act XVI of 2013. In force: as of 1. 11. 2013.

²⁴⁸ Enacted: by Section 149 of Act CXLVIII of 2010. In force: as of 1. 01. 2011.

²⁴⁹ Established: by Section 40 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

²⁵⁰ Established: by Section 50 of Act LXXVI of 2012. In force: as of 27. 06. 2012.

(2) As regards the use of the databases referred to in Subsection (1), actions carried out under contract concluded before 1 January 2002 with the makers of such databases shall be governed by the provisions of this Act in effect at the time of conclusion of the relevant contract, after 1 January 2002 as well.

(3) Subsection (2) of Section 84 of this Act, as established by Act LXXVII of 2001 on the Amendment of Act LXXVI of 1999 on Copyright, shall not apply to phonograms whose term of protection calculated under the regulations previously in force has already expired. This provision shall be without prejudice to Section 108.

*Section 111/A.*²⁵¹

The provisions of this Act, established by Act CII of 2003 on the Amendments Concerning Industrial Property Rights and Copyright shall apply - apart from the actions carried out before 1 May 2004 and the rights hence acquired - to all works, subject matter of related rights and databases which were protected on 22 December 2002 under the laws of the Member States of the European Union, or which meet the criteria for protection in accordance with Article 1(2) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society.

*Section 111/B.*²⁵²

The provisions of this Act, as established by Act CVIII of 2005 on the Amendment of Act LXXVI of 1999 on Copyright, shall apply - having regard to the provisions of Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art - to contracts concluded after 1 January 2006.

*Section 111/C.*²⁵³

(1) Subsection (1) of Section 19 of this Act, as established by Act CXII of 2008 on the Amendment of Act LXXVI of 1999 on Copyright, shall apply to use rights granted after 1 February 2009.

(2) The author's remuneration specified in Section 23/A shall be due and payable in connection with public lending rights exercised after 31 December 2010. The author's remuneration specified in Section 23/A shall for the first time be distributed in 2012 based on the information disclosed according to Subsection (4) of Section 23/A after 1 January 2011.

*Section 111/D.*²⁵⁴

²⁵¹ Enacted: by Section 50 of Act LXXVI of 2012. In force: as of 27. 06. 2012.

²⁵² Enacted: by Section 50 of Act LXXVI of 2012. In force: as of 27. 06. 2012.

²⁵³ Enacted: by Section 50 of Act LXXVI of 2012. In force: as of 27. 06. 2012.

²⁵⁴ Enacted: by Section 51 of Act XVI of 2013. In force: as of 1. 11. 2013.

(1) The provisions of Subsections (2)-(3) of Section 55, Subsections (1)-(3) of Section 74/A, Section 78/A, and Paragraphs *b)-d)* of Subsection (1) and Subsection (2) of Section 84 of this Act, as established by Act XVI of 2013 on the Amendment of Certain Acts Concerning Intellectual Property, shall also apply to phonograms and the performances fixed therein, where the fifty-year term of protection calculated according to Section 84 has not expired before 1 November 2013, and also to phonograms and the performances fixed therein, if made after that time.

(2) In the absence of clear contractual indications to the contrary, a contract on the fixation of performances with a phonogram producer concluded before 1 November 2013 shall be deemed to continue to produce its effects beyond the moment at which, by virtue of Subsection (1), the fifty-year term has already expired.

(3) Contracts on the fixation of performances with a phonogram producer which entitle a performer to recurring payments [Subsection (3) of Section 74/A] and which are concluded before 1 November 2013 can be modified following the fiftieth year after the phonogram was lawfully published or, failing such publication, the fiftieth year from the first day of the following year in which the phonogram was lawfully communicated to the public to the benefit of the performer even if the parties originally excluded such possibility. In the absence of an agreement between the phonogram producer and the performer, either of the parties may submit the case by mutual consent to the Conciliatory Body created under Section 103.

*Section 111/E.*²⁵⁵

The right to terminate under Subsection (2) of Section 55 of this Act, as established by Act XVI of 2013 on the Amendment of Certain Acts Concerning Intellectual Property, may be exercised only in writing in connection with contracts concluded prior to the entry into force of this Act as well.

*Section 111/F.*²⁵⁶

(1) The provisions of Subsections (11) and (11b) of Section 89 of this Act, as established by Act CLIX of 2013 on the Amendment of Certain Acts Concerning Intellectual Property, shall apply to the revenues provided to the NKA after 1 January 2014.

(2) The provisions of Subsection (11a) of Section 89 of this Act, as established by Act CLIX of 2013 on the Amendment of Certain Acts Concerning Intellectual Property, shall for the first time apply to the revenues collected during 2013. The sum provided before 1 January 2014 by the collective rights-management bodies to the NKA for cultural purposes from the revenues collected during 2013 from the remuneration defined in Sections 20 and 21 shall be taken into account for the purposes of the obligation of transfer prescribed under Subsection (11a) of Section 89.

Authorizations

Section 112

²⁵⁵ Enacted: by Section 52 of Act XVI of 2013. In force: as of 1. 11. 2013.

²⁵⁶ Enacted: by Section 23 of Act CLIX of 2013. In force: as of 1. 01. 2014.

(1) Upon consulting with the representative organizations affected, the Government shall be authorized to decree the range of devices used for purposes of reproduction.

(2) The Government shall be authorized to determine by decree the specific rules and regulations governing the organization and operation of the Copyright Board.

(3)²⁵⁷ The Government is hereby authorized to decree the means and the conditions for communicating works under free use to members of the general public in accordance with Subsection (5) of Section 38, including when they are made accessible to such members of the general public.

(4)²⁵⁸ The Government is hereby authorized to decree the detailed rules relating to the use of orphan works, the conditions for the rightholder's entitlement to receive fair compensation, the amount of administrative service fees charged for proceedings related to the use of orphan works, including the terms and conditions of payments and refunds of such fees, and the detailed provisions for keeping records of the permits provided for the use of orphan works.

(4a)²⁵⁹ The Government is hereby authorized to decree:

a) the detailed regulation concerning the registration and supervision of collective rights-management bodies, and the detailed rules relating to the supervision fees of collective rights-management bodies, covering handling, records, appropriation, payment terms and conditions, the procedure for the calculation of and the legal consequences for the non-payment of supervision fees;

b) the detailed regulations concerning electronic communication in proceedings for approval of the bills of royalties of collective rights-management bodies.

(5)²⁶⁰ The minister in charge of the judicial system is hereby authorized to decree:

*a)*²⁶¹ following consultation with the President of the Office and in agreement with the minister in charge of cultural affairs, the detailed regulations relating to the voluntary register of works of the Office, and

*b)*²⁶² following consultation with the President of the Office and in agreement with the minister in charge of taxation, the minister in charge of cultural affairs and the minister supervising the Office, the amount of the administrative service fee payable for procedures relating to the voluntary register of works, including the means of collection and refund.

²⁵⁷ Enacted: by Section 87 of Act CII of 2003. Shall enter into force simultaneously with the Act promulgating the treaty on the accession of the Republic of Hungary to the European Union.

²⁵⁸ Established: by paragraph (1) Section 25 of Act CLIX of 2013. In force: as of 25. 10. 2013.

²⁵⁹ Enacted: by paragraph (1) Section 41 of Act CLXXIII of 2011. In force: as of 1. 01. 2012.

²⁶⁰ Established: by Section 23 of Act CXII of 2008. In force: as of 01. 02. 2009.

²⁶¹ Amended: by paragraph (16) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

²⁶² Amended: by paragraph (17) Section 151 of Act CXLVIII of 2010. In force: as of 1. 01. 2011. Amended: by subparagraph b) Section 54 of Act XVI of 2013. In force: as of 1. 04. 2013.

(6)²⁶³ The minister in charge of the judicial system is hereby authorized to decree the amount of administrative service fees charged for proceedings related to the register of collective rights-management bodies, including the terms and conditions of payments and refunds of such fees, in agreement with the minister in charge of taxation, the minister in charge of cultural affairs and the minister supervising the Szellemi Tulajdon Nemzeti Hivatala, following consultation with the President of the Szellemi Tulajdon Nemzeti Hivatala.

(7)²⁶⁴ The minister in charge of cultural affairs is hereby authorized to decree, in agreement with the minister in charge of the judicial system, the type of data required for the calculation of the fee due to the authors for public lending, and for the distribution of such fees, and the libraries required to comply pursuant to Subsection (4) of Section 23/A of this Act.

Conformity with the Laws of the European Union²⁶⁵

Section 113²⁶⁶

This Act serves the purpose of conformity with the following legislation of the Communities:

- a)²⁶⁷ Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs;
- b) Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission;
- c) Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases;
- d) Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society;
- e) Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art;
- f) Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights;
- g) Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property;
- h)²⁶⁸ Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights;

²⁶³ Established: by paragraph (2) Section 25 of Act CLIX of 2013. In force: as of 25. 10. 2013.

²⁶⁴ Enacted: by Section 23 of Act CXII of 2008. In force: as of 01. 02. 2009.

²⁶⁵ Established: by paragraph (1) Section 29 of Act CLXV of 2005. In force: as of 15. 04. 2006.

²⁶⁶ Established: by Section 24 of Act CXII of 2008. In force: as of 01. 02. 2009.

²⁶⁷ Established: by paragraph (1) Section 53 of Act XVI of 2013. In force: as of 1. 04. 2013.

²⁶⁸ Established: by paragraph (2) Section 53 of Act XVI of 2013. In force: as of 1. 11. 2013.

i) Commission Recommendation 2006/585/EC of 24 August 2006 on the digitization and online accessibility of cultural material and digital preservation, Article 6 (a) and (c).

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on the Amendment of Act LXXVI of 1999 on Copyright²⁶⁹

Section 13.

(1) This Act shall enter into force on 1 January 2002, and shall apply to the authorization agreements concluded subsequently.

(2) The provisions of this Act pertaining to the protection of authors of databases shall also apply to the databases that were made subsequent to 31 December 1982 and before the entry into force of this Act if they satisfy the protection criteria specified in Chapter XI/A of the Copyright Act, as established by Subsection (2) of Section 8 of this Act.

(3) The rights of makers of databases under Subsection (2) shall receive protection as of the entry into force of this Act, however, the fifteen-year term of protection shall commence on 1 January 1998.

(4) Regarding the database specified in Subsection (2), their lawful use (extraction and/or re-utilization), if commenced before the date of entry into force, may continue for one year after the date of entry into force, however, only to the extent before the date of entry into force. This right, if the use involves commercial activities, may only be conveyed together with the entitled economic organization or with the organizational unit of such that actually uses the database.

(5) The provisions of Subsection shall duly apply also if substantial preparations were made for use up to the date of promulgation of this Act. In this case use may commence and be carried on up to the extent covered by said preparations at the time when this Act is promulgated.

(6) The acts performed under contract concluded with the author of a database specified in Subsection (2) prior to the entry of this Act into force shall remain to be subject to the provisions in force at the time when the contract was concluded subsequent to the entry into force of this Act.

(7) The provisions of Subsection (2) of Section 84 of the Copyright Act, established by Section 7 of this Act, shall not apply to any sound-recordings whose term of protection - calculated by the previous provisions, has already expired. These provisions shall be without prejudice to Section 108 of the Copyright Act.

Section 14.

Within the framework of Section 3 of Act I of 1994 promulgating the Europe Agreement establishing an association between the Republic of Hungary and the European Communities and their Member States, signed in Brussels on 16 December 1991, this Act contains regulations designed to approximate Directive 96/9/EC of the European Parliament and of the Council on the legal protection of databases.

²⁶⁹ Adopted by Parliament on 6 November 2001.