

Council for Trade-Related Aspects  
of Intellectual Property Rights

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MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS  
NOTIFIED UNDER ARTICLE 63.2 OF THE AGREEMENT

Hungary

The present document reproduces<sup>1</sup> the text of Law No. III of 1969 on Copyright, as amended by Law No. LXXII of 1994, as notified by Hungary under Article 63.2 of the Agreement (see document IP/N/1/HUN/1/Rev.1).

Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce

PRINCIPALES LOIS ET REGLEMENTATIONS CONSACREES  
A LA PROPRIETE INTELLECTUELLE NOTIFIEES  
AU TITRE DE L'ARTICLE 63:2 DE L'ACCORD

Hongrie

Le présent document contient le texte<sup>1</sup> de la Loi n° III de 1969 sur le droit d'auteur, modifiée par la Loi n° LXXII de 1994, notifiée par la Hongrie au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/HUN/1/Rev.1).

Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio

PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO

Hungría

En el presente documento se reproduce<sup>1</sup> el texto de la Ley N° III de 1969 sobre el Derecho de Autor, modificada por la Ley N° LXXII de 1994, que Hungría ha notificado en virtud de lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/HUN/1/Rev.1).

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<sup>1</sup>English only/anglais seulement/inglés solamente.

(The Decree amending Decree No. 9/1969. (XII.29.) MM Implementing Act No. III of 1969 on Copyright was previously published under code number 1-01. Decree No. 9/1969 as revised is now published as Text 1-02.)

HUNGARY

**Act No. III of 1969 on Copyright\***  
(as last amended by Act No. LXXII of 1994)

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\* *Entry into force* (of last amending Law): January 1, 1995.

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\*\* Added by WIPO.

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## PART ONE GENERAL PROVISIONS

### Chapter I Introductory Provisions

#### *Scope of the Act*

*Art. 1.-(1)* This Act shall provide protection for literary, scientific and artistic creations. The Republic of Hungary shall support the institutions which have responsibility for stimulating creative work and promoting the utilization of authors' works on a social scale.

(2)<sup>1</sup> This Act shall also provide protection for other activities similar in nature to authors' creative works (Article 51) and for the activities of performers, phonogram producers, radio and television organizations and entities that communicate original cable programs to the public.

(3) This Act shall afford no protection to statutes, public resolutions, official notifications, documents, standards or other obligatory regulations.

*Art. 2.* Copyright protection shall extend to a work first disclosed abroad only if the author is a Hungarian national or if protection is afforded to the author under international conventions or by reciprocity.

*Art. 3.* Any matters not regulated by this Act shall be governed by the provisions of the Civil Code or, if affecting employment, by the provisions of the Labor Code.<sup>2</sup>

#### *Copyright*

*Art. 4.-(1)* Copyright shall belong to the person who has created the work (the author).

<sup>1</sup> Amended by Act No. VII of 1994, Art. 13. In force from July 1, 1994.

<sup>2</sup> See Act No. IV of 1959 on the Civil Code and Act No. XXII of 1992 on the Labor Code.

(2) Copyright protection shall be afforded, without prejudice to the rights of the author of the original work, with respect to the alteration, adaptation or translation of the work of another person if the work thus obtained has an individual and original character.

*Art. 5.-(1)* The authors of a joint work, where not made up of independent parts, shall enjoy copyright jointly and, where not otherwise agreed, in equal parts. However, any joint author may take action independently in the event of infringement of copyright.

(2)<sup>3</sup> Where a joint work is made up of independent parts, each joint author shall enjoy separate copyright in his respective part.

(3) Copyright in collected works shall belong to the editor for the work as a whole, however, this shall not prejudice the independent rights of the authors of the individual works included in the collection.

*Art. 6.-(1)* The author's rights in a work disclosed anonymously or pseudonymously shall be exercised, until the identity of the author becomes known, by the person who first discloses the work.

(2) Organizations representing the interests of authors may take action to uphold the rights of an anonymous author of an unpublished work when it can be presumed with good reason that the anonymous author is a Hungarian national.

*Art. 7.* Moral rights and economic rights in a work shall belong to the author.

### Chapter II Moral Rights

*Art. 8.-(1)* The author shall decide whether his work may be disclosed.

(2) The author's consent shall be required to provide to the public any information on the contents of a work prior to its disclosure.

*Art. 9.-(1)* The author shall have the right to have his name mentioned on his work as that of the author;

<sup>3</sup> Amended by Decree-Law No. 27 of 1978, Art. 1.

reference shall be made to the author if a part of his work is included in another work or if his work is quoted or reviewed. The author shall be entitled to disclose his work under a pseudonym or without stating his name.

(2) The author may prevent any person from calling into doubt his capacity as author.

*Art. 10.* Any unauthorized alteration or use of a work shall be considered an infringement of the author's moral rights.

*Art. 11.* The author may withdraw his authorization to disclose his work or may prohibit the continued use of a work already disclosed if he has good grounds to do so; however, he shall be required to indemnify for any damages having occurred due to such declaration. The employer's right to exploit the work shall not be affected.

*Art. 12.*–(1) Moral rights shall not be limited in time. They may not be transferred or waived.

(2) After the author's death, the moral rights set out in this Act may be exercised during the term of protection (Article 15) by the person responsible for the administration of the author's literary, scientific or artistic legacy or, if there is no such person or the person responsible fails to take action, the person having acquired copyright by inheritance.

(3) After the expiration of the term of protection, the organizations competent to represent authors' interests or other organizations designated by the Minister for Culture and Education may take action for the protection of the author's moral rights in cases where the use of the work results in a distortion of the work or is prejudicial to the author's reputation.

### Chapter III Economic Rights

*Art. 13.*–(1) Any exploitation of the work shall be subject to the author's authorization, unless otherwise provided by this Act. The use of the specific title of a work shall likewise be subject to the author's authorization.

(2) After the author's death, the legal successor in title of the author shall have the right to grant authorization during the term of protection.

(3) Remuneration shall be paid to the author or his successor in title for the exploitation of the work, unless otherwise provided by this Act. The right holder may waive remuneration only by an explicit declaration.

*Art. 14.*–(1) Where a work has been created as part of the author's employment conditions and the employer is entitled to use the work during the period of employment, delivery of the work shall imply consent to disclo-

sure of the work and transfer of the right to use it to the employer. The employer shall enjoy such right only within the scope set out in the terms and conditions of employment and shall exercise it only within the field of his activities. The author shall require the employer's consent to exploit the work himself outside the field referred to above; however, the employer may only refuse to give his consent if he has good reason to do so.

(2) Where the maximum duration of the exercise of the right to use a work is laid down by law, such right shall belong to the author after the expiration of that period. Such right shall also belong to the author if the employer does not use the right during the period laid down by law.

*Art. 15.*–(1)<sup>4</sup> The economic rights shall enjoy protection during the lifetime of the author and for 70 years following his death.

(2) The 70-year term of protection shall be counted from the first day of the year following the death of the author and, in the case of joint authors (Article 5(1)), from the first day of the year following the death of the last surviving joint author.

(3) If the identity of the author cannot be ascertained, the 70-year term of protection shall commence with the year following first disclosure of the work. However, should the author make himself known during that time, the term of protection shall be counted as determined in paragraph (2).

(4) The term of protection for cinematographic creations shall be 70 years commencing on the first day of the year following the year of presentation.

*Art. 15A.*<sup>5</sup> [Repealed]

### Chapter IV Limitations on Copyright

#### *Free Uses*

*Art. 16.* Those uses that are free (Articles 17 to 21) shall entail no remuneration and shall not be subject to authorization by the author.

*Art. 17.*–(1) Any part of a disclosed work may be quoted provided the source and the author shown as such are named. Such quotations shall be true to the original and their scope shall be warranted by the nature and purpose of the work in which they are included.

<sup>4</sup> Amended by Act No. VII of 1994, Art. 14. In force from July 1, 1994. See Act No. VII of 1994, Art. 29(1).

<sup>5</sup> Inserted by Decree-Law No. 27 of 1978, Art. 2, repealed by Act No. LXXII of 1994, Art. 3. Invalid from January 1, 1995.

(2) Any part of a disclosed work, or the whole of a work of a small size, may be reproduced for the purposes of school education—including radio or television courses—and for the propagation of scientific knowledge, provided the source and the author shown as such are named.

(3)<sup>6</sup> [Repealed]

*Art. 18.*—(1) Any person may make a copy of a disclosed work provided he does not do so for the purpose of putting it into circulation or with gainful intent and does not prejudice the legitimate interests of the author in any other manner. This shall not apply to works of architecture and engineering structures.

(2)<sup>7</sup> The lending of individual copies of a work—except for computer programs and with the limitation under paragraph (3)—shall constitute a free use.

(3)<sup>8</sup> The lending of copies of cinematographic works and other audiovisual works and of works on phonograms shall be deemed a free use only if done by public libraries operating as budget institutions.

*Art. 19.*—(1) Reports containing facts and news may be freely quoted provided the source is named. The contents of public proceedings and speeches may be freely used; however, the author's authorization shall be required for publication of speeches in collections.

(2) Newspapers, periodicals, radio and television may freely quote from current economic and political articles provided the source and the author shown as such are named, unless such quoting was prohibited on original publication of the article.

(3) Television may freely use, incidentally or perceivable in the background, works of fine art, architecture or applied art, and photographs. In such cases, it shall not be necessary to name the author.

*Art. 20.*—(1) Radio and television may report, within the framework of broadcast news and current affairs programs on various works in connection with daily events and to the extent warranted by the occasion. In such cases, it shall not be necessary to name the author.

(2) Publicly exhibited works of fine art, architecture, applied art and photography may be presented by both newspapers and periodicals and in the news and other current affairs programs on television.

<sup>6</sup> Repealed by Act No. VII of 1994, Art. 19(a). Invalid from July 1, 1994.

<sup>7</sup> Amended by Act No. VII of 1994, Art. 15(1). In force from July 1, 1994.

<sup>8</sup> Inserted by Act No. VII of 1994, Art. 15(2). In force from July 1, 1994.

*Art. 21.*—(1) A work already disclosed may be performed at school celebrations and for other school purposes.

(2) A work already disclosed may be performed at occasional private gatherings and on the occasion of mass demonstrations (parades, etc.) if there is no gainful intent whatsoever, even indirectly, no intent to increase revenue and no fees are paid to the participants.

(3) A work may be performed for private use if there is no gainful intent whatsoever, not even indirectly, and no intent to increase revenue.

*Use Without Authorization by the Author  
Against Payment of a Fee*

*Arts. 22 and 23.*<sup>9</sup> [Repealed]

*Licensing of Use Out of Public Interest*

*Art. 24.* [Repealed]

**Chapter V  
Contracts for Use**

*General Provisions Relating to Contracts for Use*

*Art. 25.* In the cases determined by law, the author or his successor in title may only conclude a contract for the use of a work with the competent organization or through the agency of such organization.

*Art. 26.*—(1) The terms and conditions of contracts for use shall be determined by the parties, taking into consideration the limitations imposed by law.

(2) No departure to the author's prejudice shall be admissible from any provision of this Act which serves to protect the author's interests. Similarly, no departure shall be permitted from any provision of a legislative text issued on the basis of this Act and that prohibits such departure. Any stipulation in a contract contrary to these provisions shall be null and void; it shall be replaced by the corresponding provision of law.

*Art. 27.* A contract for use shall be concluded in writing, unless otherwise provided by law.

*Art. 28.*—(1) A user shall acquire an exclusive right to use only if expressly stipulated in the contract and if it does not conflict with the provisions of law.

<sup>9</sup> Repealed by Act No. VII of 1994, Art. 19(a). Invalid from July 1, 1994.

(2) A user may transfer his rights only with the author's authorization, unless otherwise provided by law.

(3) Transfer of the right of ownership of a copy of a work shall not imply transfer of the author's rights and the copy delivered under the contract for use shall be considered to have remained in the author's ownership unless otherwise agreed by the contracting parties.

*Art. 29.*–(1) The user shall be required to make a declaration, within the deadline stipulated by law, on the acceptance of the work delivered to him under a contract for works to be created in the future.

(2) Under a contract for future works, the user shall be entitled to return the finished work to the author repeatedly for purposes of correction, giving good reason and setting an appropriate deadline.

(3) If the author refuses to make corrections without reasonable grounds, or fails to make the corrections by the deadline set, the user may terminate the contract without payment of remuneration.

(4) If the work proves unsuitable for use even after correction, reduced remuneration shall be paid to the author.

*Art. 30.*–(1) If the author has authorized the use of his work, he shall be required to make alterations to it that do not affect the substance of the work but that are indispensable or obviously necessary for its use. Should the author fail, or prove unable, to meet this obligation, the user may carry out the alterations without his authorization.

#### *Publication Contracts*<sup>10</sup>

*Art. 31.*–(1) Under a publication contract, the author shall be required to make his work available to the publisher, and the publisher shall be entitled to publish it and put it into circulation, and shall be required to pay remuneration to the author.

(2) The right of publication—in the event of doubt—shall relate to publication of the work in Hungarian. The right of publication exercised under the contract shall be exclusive, except in the case of works made for collections or of newspapers and periodicals.

*Art. 32.* A publication contract shall apply for a specified duration only or to a specified number of copies only. Legislation may permit a contract to be concluded for an unspecified period of time and may determine the maximum duration of the contract.

<sup>10</sup> See Decree No. 1/1970. (III.20.) MM. Decree No. 6/1972. (III.19.) MM.

*Art. 33.* If the publisher fails to publish the work delivered to him under the contract within the statutory period of time or the period of time specified in the contract or, where nothing is stipulated, within a reasonable period of time, the author may terminate the contract and may claim payment of the remuneration due to him.

#### *Broadcasting Contracts*<sup>11</sup>

*Art. 34.*<sup>12</sup>–(1) Under a broadcasting contract, the author shall be required to make his work available to the radio or television organization. The radio or television organization shall be entitled to exercise the right of broadcasting the work during the period of time specified in the contract and the right to make sound and video recordings of the work using its own equipment for its own purposes and to subtitle such recordings.

(2) The author's special authorization shall be necessary for a recording permitting repeated broadcasting.

(3) Remuneration shall be paid for each use of the recording.

(4) If a work made for broadcasting is not utilized within the period of time specified in the contract or, where nothing is stipulated, within a reasonable period of time, the author shall be entitled to terminate the contract with immediate effect and claim payment of the remuneration due to him.

(5) The Hungarian Bureau for the Protection of Authors' Rights shall be entitled to conclude contracts on behalf of writers, composers and lyricists with the user authorizing the broadcasting of works already disclosed—except for the use of literary works or dramatico-musical works written for the stage, or scenes or selected parts therefrom—and the recording of such works in accordance with paragraph (2) and determining the remuneration to be paid for such uses.

(6) Broadcasting shall be deemed to include satellite broadcasting if the program broadcast can be received directly by the public. A program broadcast by satellite shall be deemed directly receivable by the public if, under the responsibility and control of the radio or television organization, signals carrying the work are directed upwards to the satellite and from the satellite back to the ground in an uninterrupted transmission to enable the signals to be received by the public.

(7) The provisions of paragraphs (1) to (5) shall apply, *mutatis mutandis*, to the cable transmission of a cable operator's own program to the public.

<sup>11</sup> See Decree No. 5/1970. (VI.12.) MM.

<sup>12</sup> Amended by Act No. VII of 1994, Art. 16. In force from July 1, 1994.

PART TWO  
PROVISIONS APPLYING TO SPECIFIC  
FORMS OF WORKSChapter VI  
Literary Works

*Art. 35.*–(1) The authors' rights in collected works compiled by scientific institutes and bodies under government control shall be exercised by the institute, or body concerned; however, this shall not prejudice the independent rights of the authors of the works included in the collections.

(2)<sup>13</sup> Such works shall enjoy copyright protection for a term of 70 calendar years following the year of first publication.

*Art. 36.* The author's authorization for the public performance of a literary work already disclosed shall be deemed given if the remuneration determined by the organization administering authors' rights and approved by the Minister for Culture and Education<sup>14</sup> has been paid; this rule shall not affect the performance of literary works written for the stage.

*Art. 37.* The author's authorization shall be required for the inclusion of illustrations in a literary work to be published.

*Dramatic Works*

*Art. 38.* Without prejudice to international conventions, a dramatic work may be performed, on the basis of the published text or of a lawfully used manuscript, by amateur theatrical groups without the author's special authorization, against payment of a fee<sup>15</sup> or, if the performance is neither, with gainful intent, even indirectly, nor for the purposes of increasing revenue, and no remuneration is paid to the participants, without payment of a fee.

*Contracts for Stage Performances*<sup>16</sup>

*Art. 39.*–(1) Under a contract concluded for the public performance of a dramatic work, the author shall be

<sup>13</sup> Amended by Act No. VII of 1994, Art. 17. In force from July 1, 1994. See Act No. VII of 1994, Art. 29(1).

<sup>14</sup> See Decree No. 8/1992. (V.8.) MKM. Communications of the Hungarian Bureau for the Protection of Authors' Rights (in: *Magyar Közlöny*, No. 1994/127).

<sup>15</sup> See Decree No. 2/1970. (III.20.) MM.

<sup>16</sup> See Decree No. 2/1970. (III.20.) MM.

required to make his work available to a theater and the theater shall acquire the right to perform the work in public under the terms and conditions laid down in the contract and shall be required to pay remuneration to the author.

(2) If the theater fails to perform the work within the period of time specified in the contract or within a reasonable period of time if nothing is specified in the contract, the author may terminate the contract and claim payment of the remuneration due to him.

Chapter VII  
Musical Works<sup>17</sup>

*Art. 40.*–(1) The author's authorization for the public performance of a musical work already disclosed shall be deemed given if the remuneration determined by the organization administering authors' rights and approved by the Minister for Culture and Education has been paid.<sup>18</sup>

(2) In the event of the public performance of a musical work, remuneration shall be due to the lyricist only if the musical work enjoys copyright protection.

(3) The provisions of paragraphs (1) and (2) shall not apply to the stage performance of a musical work nor to the full performance of a musical work written for the stage.

Chapter VIII  
Cinematographic Works

*Art. 41.*–(1) The authors of the literary and musical works created for a motion picture, the director of the motion picture and all other persons having made creative contributions to the production of the motion picture as a whole shall be deemed the authors of the cinematographic work.

This provision shall not prejudice the statutory rights of the authors of other works used in producing the cinematographic work.

(2) The names of the authors referred to in paragraph (1) shall be mentioned on the cinematographic work. The author of the cinematographic work may require, as a moral right, that his name should not be mentioned on the work.

(3) The economic rights of the authors in a cinematographic work shall be acquired by the film studio, as suc-

<sup>17</sup> See Decree No. 3/1970. (III.20.) MM.

<sup>18</sup> See Decree No. 8/1992. (V.8.) MKM. Communications of the Hungarian Bureau for the Protection of Authors' Rights (in: *Magyar Közlöny*, No. 1994/127).

cessor in title, on the basis of contracts concluded with the authors, and may be exercised in respect of other persons by the film studio only. The film studio may also take action for the protection of the authors' moral rights.

#### *Adaptation Contracts<sup>19</sup>*

*Art. 42.*–(1) Under an adaptation contract, an author shall be required to make his work available to a film studio and the film studio, in turn, shall acquire the right of making a single screen version of the work, of distributing the cinematographic work without territorial limitation and showing it in public, of subtitling the cinematographic work or providing it with a soundtrack in a language other than that of the work as created, and shall be required to pay remuneration to the author for the use of his work.

(2) If the film studio fails to begin making the film within a period of four years from acceptance of the work or begins but fails to complete it within a reasonable period of time, the author may terminate the contract and claim payment of the remuneration determined by law for the work undertaken for the purposes of the screen version.

(3) The author may not conclude a new adaptation contract for the same work, unless consented to by the film studio, within a period of 10 years from completion of production.

*Art. 43.* The provisions of this Chapter shall apply to all organizations concerned with the production of cinematographic works on the basis of adaptation contracts.

### **Chapter IX**

#### **Works of Fine Art, Architecture, Engineering and Applied Art and Artistic Photographs<sup>20</sup>**

*Art. 44.*–(1) Copyright in works of architecture and other engineering structures shall belong to the owner of the design.

(2) The author of the design shall have the right to have his name shown on the building (structure).

(3) The user of a work shall tolerate its presentation to the public and the taking of photographs of it, if this does not prejudice his legitimate interests.

*Art. 45.*–(1) An image may be made of a work of fine art, architecture or applied art erected permanently out-

doors in a public place and used without the authorization of the author and without paying remuneration to him.

(2) The images of works of fine art, architecture or applied art and artistic photographs may be used without the authorization of the author and without paying remuneration to him for scientific and educational lectures and for teaching.

*Art. 46.*–(1) The owner of a work of fine art or applied art shall be required to make the work temporarily available to the author to enable the latter to exercise his author's rights, provided that it does not prejudice the owner's legitimate interests.

(2) The author's authorization shall be required to exhibit works of fine art, architecture or applied art and artistic photographs—except for works held in public collections and works in the public domain—but no remuneration shall be paid to the author for such exhibition.

*Art. 46A.*<sup>21</sup>–(1) Remuneration shall be paid on transfer of the right of ownership of an original work of fine art or applied art through the business entity engaged in trading activities (Article 685(c) of the Civil Code).

(2) Paintings, drawings, reproduced pictorial graphics and works of applied art bearing a serial number and the author's mark, and sculptures and tapestries shall be deemed original works of fine art and applied art for the purposes of paragraph (1).

(3) The remuneration shall be paid by the buyer; it shall represent 5 percent of the purchase price without general turnover tax. The business entity engaged in the trading activity shall be responsible for collecting and remitting the remuneration.

(4) Museums and comparable public collections shall be exempt from the obligation to pay remuneration.

(5) The remuneration shall be transferred to the organization appointed by the Minister for Culture and Education, at intervals likewise determined by the Minister. The appointed organization shall pay the collected remuneration to the author of the work or his successor in title.

*Art. 47.* In the case of industrial designs serving industrial production purposes:

(a) the author's right to have his name mentioned may be regulated by legislation or contract in a manner that differs from this Act;

<sup>19</sup> See Decree No. 12/1970. (VI.30.) MM.

<sup>20</sup> See Decree No. 6/1970. (VI.24.) MM, Decree No. 7/1970. (VI.24.), Decree No. 8/1970. (VI.24.) MM, Decree No. 9/1970. (VI.25.), Decree No. 10/1970. (VI.25.) MM.

<sup>21</sup> Amended by Act No. LXXII of 1994, Art. 1. In force from January 1, 1995.



- (b) within the scope defined by the contract, the user shall have an exclusive right of use and a right of alteration, but the designer must be consulted before any alteration is effected;
- (c) the contract shall include provisions stipulating whether the user may use the work for a specified period of time only or for a period without such limitation.

*Art. 48.* In the case of commissioned portraits, exercise of the author's rights shall also be subject to the consent of the person portrayed.

### PART THREE

#### Chapter X<sup>22</sup> Protection of Neighboring Rights

##### *Protection of Performers*

*Art. 49.*—(1) Unless otherwise provided by law, the performer's authorization shall be required for:

- (a) recording an unrecorded performance;
- (b) reproducing a recorded performance, if the original recording was made without the performer's authorization, if the reproduction is intended for a purpose other than the one covered by the authorization or if the original recording was made pursuant to Article 50I(2) and the reproduction is intended for a purpose other than that to which Article 50I(2) relates;
- (c) broadcasting the performance or communicating it to the public in a different manner, unless the broadcasting or the communication is effected by means of a recording made for putting into circulation or is itself a broadcast performance.

(2) In the case of an ensemble of performers, the members of the ensemble may exercise their rights under paragraph (1) through their representative(s).

(3) If the performer authorizes his performance to be recorded in a cinematographic work or other audiovisual work, paragraph (1) shall not apply subsequently. This provision shall not prejudice performers' claims to remuneration under Articles 50G and 50J.

*Art. 50.*<sup>23</sup>—(1) Unless otherwise provided by law, remuneration shall be due to the performer for the uses mentioned in Article 49(1).

<sup>22</sup> Amended by Act No. VII of 1994, Art. 18. In force from July 1, 1994.

<sup>23</sup> Amended by Act No. VII of 1994, Art. 18. In force from July 1, 1994.

(2) The provisions of Article 34 relating to the payment of a fee for the recording of a performance made for broadcasting or communication to the public shall also apply, *mutatis mutandis*, in the case of performers and their professional organizations, respectively.

*Art. 50A.*<sup>24</sup>—(1) In the case of the uses mentioned in Article 49(1), the performer shall have a moral right to the mention of his name, depending on the nature of the use and the manner of complying with it. In the case of ensembles, this right shall apply to the names of the ensemble, of the leader of the ensemble and of the leading performers.

(2) Distortion of a performance shall be deemed to infringe the moral rights of the performer.

##### *Protection of Phonogram Producers*

*Art. 50B.*<sup>25</sup>—(1) Unless otherwise provided by this Act, the authorization of the phonogram producer shall be necessary for:

- (a) making a copy of a phonogram either directly or indirectly;
- (b) putting the copy of the phonogram into circulation, including the importing of the phonogram into the country for such purposes.

(2) Unless otherwise provided by this Act, a phonogram producer shall have the right to remuneration for the uses referred to in paragraph (1).

*Art. 50C.*—(1) In the case of the direct broadcasting or other communication to the public, of a phonogram released for commercial purposes or of a copy thereof, the user shall pay a further remuneration, in addition to the royalty to be paid for the use of the works under copyright protection, which shall be due to the phonogram producer and the performer, on an equal basis, unless otherwise agreed between those entitled.

(2) The professional organizations of phonogram producers and performers shall reach agreement between themselves and the users as to the amount of the remuneration and its collection and distribution.

(3) Those entitled may assert their claims to remuneration through their professional organizations and may renounce such remuneration only after the date of its distribution and only to the extent of the amount due to them.

*Art. 50D.*—(1) The public lending and rental of released copies of a phonogram shall be subject to the

<sup>24</sup> Amended by Act No. VII of 1994, Art. 18. In force from July 1, 1994.

<sup>25</sup> Amended by Act No. VII of 1994, Art. 18. In force from July 1, 1994.

authorization of the phonogram producer, in addition to that of the author of the work embodied in the phonogram, and, in the case of a sound recording of a performance, to that of the performer(s).

(2) The use referred to in paragraph (1) shall be subject to payment of remuneration, which shall be distributed on an equal basis between those entitled, unless otherwise agreed between them. The authors and the performers may assert their claims to remuneration through their professional organizations and may renounce such remuneration only after the date of its distribution and only to the extent of the amount due to them.

*Art. 50E.* The phonogram producer shall have the right to have his name mentioned on the copies of the phonogram.

*Protection of Radio  
and Television Organizations*

*Art. 50F.*—(1) Unless otherwise provided by this Act, the radio or television organization's authorization shall be required for its program to be:

- (a) broadcast or communicated to the public by other radio or television organizations or by cable operators;
- (b) recorded;
- (c) reproduced after recording, if the recording was made without authorization or the recording was made pursuant to Article 50I(2) and the reproduction is made for a purpose other than that to which Article 50I(2) relates.

(2) Unless otherwise provided by this Act, the television organization's authorization shall be required for its program to be communicated to the public in a room where the program is accessible to the public on payment of an entrance fee.

(3) The uses referred to in paragraphs (1) and (2) shall be subject to payment of remuneration, unless otherwise provided by law.

(4) Where an original program is communicated to the public by cable, paragraphs (1) to (3) shall apply, *mutatis mutandis*.

*Art. 50G.*—(1) If the works broadcast or transmitted by cable in the program of the radio or television organization or of the entity communicating an original cable program to the public are simultaneously communicated by cable to the public through an organization other than the original organization, the authorization of the author, that of the radio or television organization and/or that of the entity communicating an original cable program to the public shall be deemed given, if the organization executing the simultaneous transmission has paid to the Hungarian Bureau for the Protection of Authors' Rights

the royalty determined by the Bureau with the approval of the Minister for Culture and Education. The professional organizations of the entitled persons shall be consulted before the amount of such royalty is determined.

(2) The royalties collected pursuant to paragraph (1), reduced by the expenses, shall be distributed to the entitled persons as follows: 50 percent to the authors and those entitled under copyright, 30 percent to the performers, and 20 percent to the radio or television organizations or the entities communicating original cable programs to the public.

(3) The share of royalties to be paid to the authors or those entitled under copyright shall be distributed by the Hungarian Bureau for the Protection of Authors' Rights according to the Rules approved by the Minister for Culture and Education.

(4) The Hungarian Bureau for the Protection of Authors' Rights shall transfer the share due to the performers to their professional organization for distribution.

(5) The Hungarian Bureau for the Protection of Authors' Rights shall transfer the share due to radio or television organizations and the entities communicating original cable programs to the public to their professional organization or, if no such organization exists, shall distribute the amount according to the rules established by the Minister for Culture and Education.

(6) Those entitled may assert their claims to remuneration through their professional organizations and may renounce such remuneration only after the date of its distribution and only to the extent of the amount due to them.

*Art. 50H.* The radio or television organizations and/or the entities communicating original cable programs to the public shall have the right to have their names mentioned in relation to the uses referred to in Article 50F and 50G.

*Common Rules Applying to the Protection  
of Performers, Phonogram Producers and  
Radio and Television Organizations*

*Art. 50I.*<sup>26</sup>—(1) Protection of the rights afforded by this Chapter may not prejudice the protection of authors' rights in literary, scientific and artistic works.

(2) The authorization of the performer, the phonogram producer, the radio or television organization and/or of the entity communicating an original cable program to the public shall not be required in those cases where

<sup>26</sup> Amended by Act No. VII of 1994, Art. 18. In force from July 1, 1994.

the author's authorization is not required for the use of works enjoying statutory copyright.<sup>27</sup>

*Art. 50J.*—(1) The authors of works broadcast in the programs of radio and television organizations, including the programs of entities communicating original cable programs to the public, and of works put into circulation on a video or audio medium, the performers and the phonogram producers shall be entitled to remuneration for the copying for private purposes of their works, performances and phonograms.

(2) The remuneration referred to in paragraph (1) shall be determined by the Hungarian Bureau for the Protection of Authors' Rights with the approval of the Minister for Culture and Education.<sup>28</sup> The professional organizations representing the performers and the phonogram producers shall be consulted before the amount of the remuneration is determined. The remuneration shall be paid to the Hungarian Bureau for the Protection of Authors' Rights by the manufacturers of blank video or audio mediums or, in the case of video or audio mediums manufactured abroad, by the person required by law to pay customs duties, within eight days from the date of putting into circulation or, in the case of video or audio mediums manufactured abroad, from the date of completion of customs clearance.

(3) The obligation to pay remuneration shall not apply to:

- (a) putting into circulation for export; or
- (b) video and audio mediums designed exclusively for use with devices (e.g., studio equipment, dictaphones) which are not normally used for the making of copies of works for private purposes.

(4) The amount of the royalties collected, reduced by the expenses shall be distributed as follows:

- (a) 50 percent to the authors, 30 percent to the performers and 20 percent to the phonogram producers, in the case of audio mediums, and
- (b) 70 percent to the authors or the holders of copyright, and 30 percent to the performers, in the case of video mediums.

(5) The Hungarian Bureau for the Protection of Authors' Rights shall transfer the share of the royalties due to the performers and the phonogram producers to their professional organizations. The share of the royalties due to the authors and those entitled under copyright shall be distributed by the Hungarian Bureau for the Protection of Authors' Rights according to the Rules approved by the Minister for Culture and Education.

<sup>27</sup> See: Communications of the Hungarian Bureau for the Protection of Authors' Rights. (in: *Magyar Közlöny*, 1994/71).

<sup>28</sup> See: Communications of the Hungarian Bureau for the Protection of Authors' Rights. (in: *Magyar Közlöny*, 1994/127).

(6) Those entitled may assert their claims to remuneration through their professional organizations and may renounce such remuneration only after the date of its distribution and only to the extent of the amount due to them.

*Art. 50K.*<sup>29</sup> The rights afforded by this Chapter shall be protected for the following periods of time:

- (a) rights in phonograms and in the performances fixed thereon: 50 years from the end of the year in which the phonogram was first put into circulation or, if the phonogram was not put into circulation during that period, from the end of the year in which the phonogram was made;
- (b) rights in unrecorded performances: 50 years from the end of the year in which the performance was given;
- (c) rights in a broadcast program or an original cable program communicated to the public: 50 years from the end of the year in which the broadcast or communication occurred.

#### Chapter XI Protection of Photographs, Illustrations and Other Visual Aids

*Art. 51.*—(1) Photographs, figures, technical drawings, maps, graphic illustrations or aids and films which do not enjoy copyright protection as scientific or artistic works shall nevertheless enjoy protection if they bear the name of the maker and the year of publication or disclosure.

(2) The duration of protection shall be 15 years from the end of the year of publication or disclosure.

(3) Use of photographs, pictures, technical drawings, maps, graphic illustrations or aids and films enjoying protection shall be subject to the authorization of the maker and the mention of his name. It shall not be necessary to obtain authorization and to mention the name of the maker in those cases in which such is not required for the use of works enjoying copyright protection.

### PART FOUR

#### Chapter XII Consequences of the Infringement of Copyright

*Art. 52.*—(1) An author may assert civil law claims, as appropriate, if his rights are infringed. He may claim, *inter alia*:

<sup>29</sup> Amended by Act No. VII of 1994, Art. 18. In force from July 1, 1994. See Act No. VII of 1994, Art. 29(2).

- (a) a declaration by the court establishing that an infringement has been committed;
- (b) an injunction to cease and desist;
- (c) redress from the infringer by declaration or other suitable manner, where necessary by publication effected by the infringer at his cost;
- (d) removal of the infringing situation, restoration by the infringer at his cost of the situation obtaining prior to the infringement, destruction of the infringing article or removal of its infringing nature.

(2)<sup>30</sup> Pursuant to the rules of civil liability,<sup>31</sup> damages shall be awarded in the event of infringement of copyright. Infringement of the author's moral rights shall also be grounds for awarding damages.

Art. 53.-(1) Unauthorized use of a work shall entitle the author to the remuneration to which he would be entitled for authorized use.

(2) Where responsibility for the infringement lies with the user, an amount corresponding to the royalty shall also be imposed as a fine in addition to the remuneration and the damages due to the author. The amount of the fine shall be reduced by the court only in well-founded circumstances.

Art. 54. The provisions of Articles 52 and 53 shall apply *mutatis mutandis* to infringement of the provisions of Chapters XI and XII.

#### Chapter XIII<sup>32</sup> Payments Due After Expiration of the Term of Protection

Art. 54A.-(1) After the expiration of the term of protection of the author's economic rights, a payment shall become due on transfer of the ownership of original works of fine art and applied art through a business entity engaged in trading activities.

(2) The provisions of Article 46A shall apply *mutatis mutandis* to the determination of the types of original

works of fine art and applied art, the obligation to pay, the amount, collection and transfer of such payments, and exemption from payment, except that the body appointed by the Minister for Culture and Education shall use the payments transferred to it for the support of creative activity and the welfare of creative artists.<sup>33</sup>

#### Chapter XIV<sup>34</sup> Final Provisions Board of Copyright Experts

Art. 55.-(1) The courts and other authorities may request the Board of Experts supervised by the Minister for Culture and Education to give their advisory opinion in special issues relating to copyright disputes.

(2) The organization and tasks of the Board shall be laid down by the Minister for Culture and Education, in agreement with the Minister for Justice.<sup>35</sup>

#### Entry into Force, Implementation

Art. 56.-(1) This Act shall enter into force on January 1, 1970. Its provisions shall also apply to works that, on the date of its entry into force, enjoy copyright protection under previous legislation. This Act shall not prejudice contracts for use concluded before its entry into force.

(2) Act No. LIV of 1921 on Copyright, Decree No. 98/1951. (IV.21.) MT on the publication of author's works, Article 5(1) of the Decree-Law No. 13 of 1955 on programs, including performances, as well as Articles 515 to 520, 524, 528 to 531 and 533 of the Act on Commerce (Act No. XXXVII of 1875) shall cease to have effect.

(3) The Government shall be responsible for the implementation of this Act through the Minister for Culture and Education who, in the course of implementation, may issue decrees to establish the conditions of contracts for use not provided for by law and to determine the amount of the royalties and other remuneration to be paid pursuant to this Act.

<sup>30</sup> Inserted by Decree-Law No. 27 of 1978, Art. 4; amended by Act No. VII of 1994, Art. 19(a).

<sup>31</sup> See: Act No. IV of 1959, Arts. 339-344.

<sup>32</sup> Inserted by Act No. LXXII of 1994, Art. 2. In force from January 1, 1995.

<sup>33</sup> Corrected in: *Magyar Közlöny*, 1994/122.

<sup>34</sup> Numbering amended by Act No. LXXII of 1994, Art. 2.

<sup>35</sup> See Decree No. 6/1993. (IV.7.) MKM.