

UNESCO
WORLD ANTI PIRACY OBSERVATORY

HUNGARY

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I. Legislation

1. Copyright Laws

Copyright in Hungary is principally protected by the Hungarian Copyright Act, [Act No. LXXVI of 1999 on Copyright](#). The Copyright Act has been amended nine times since its adoption in 1999. In 2003, before Hungary's accession to the EU, the Copyright Act was again amended to meet the requirements of the *acquis communautaire*¹.

In Hungary, copyright law predominately falls within civil law. As a result, copyright law is also regulated by the Hungarian Civil Code, which was adopted in 1959.

Additionally, there are governmental and ministerial decrees that regulate copyright law.

2. Other Laws

- The Hungarian Criminal Code, adopted in 1978;
- Civil Proceeding Law of 1952, which allows for county courts to hear infringement litigation matters;
- Act No. LVII. of 1996 on the Prohibition of Unfair and Restrictive Market Practices, which can supplement the Copyright Act; and
- Act No. CVIII of 2001, which includes provisions concerning electronic commerce and the liability of service providers regarding online copyright infringement.

3. Latest Developments and Perspectives

Hungary implemented the Enforcement Directive (2004/48/EC) in 2005, which significantly amended provisions of the Copyright Act. A Criminal Code provision concerning collective rights management took effect on 01/02/2009.

Further modifications do not exist at this time.

4. Summary of Legislation

- *Exclusive rights of the authors and of owners of neighboring rights*

Hungary provides copyright owners with both exclusive economic and moral rights (Articles 10 to 13, 16 to 19, 23 to 29 and 69 of the Copyright Act).

Exclusive rights of the Authors

- **Economic Rights**

Authors have exclusive rights to use their entire work or an identifiable part thereof in any tangible or intangible form and to authorize each and every use thereof. Specific uses include: reproduction, distribution, public performance, public broadcasting or other manners of public communication, retransmission of broadcasted works, alteration and exhibition (Articles 16 to 19, 23 to 29 and 69 of the Copyright Act).

¹ The *acquis communautaire* is the body of common rights and obligations which bind all the Member States together within the European Union.

- **Moral Rights**

The Copyright Act provides authors the following moral rights:

1. Divulgence of the work;
2. Indication of the author's name; and
3. Protection of the integrity of the work.

In other words, an author has the right to decide whether her work is made public, and whether her name is referenced in association with the work. Additionally, an author's moral rights are infringed where an author's honour or reputation is prejudiced by external distortion, mutilation or other alterations of the work. (Articles 10 to 13 of the Copyright Act).

Exclusive Rights of the Owners of Neighboring Rights

- **Performers rights**

The Copyright Act provides performers the following moral rights:

1. Indication of the performer's name; and
2. Protection of the integrity of the performance (Article 75 of the Copyright Act).

Performers also have an exclusive economic right to license the use of a work for the following: fixation and public broadcasting of an unfixed performance, reproduction and distribution of a fixed performance, and making a performance public to the extent that the public can individually choose the place and time of the performance's availability (Article 73 of the Copyright Act).

- **Phonogram Producers' Rights**

Phonogram producers have an exclusive economic right to license the use of a sound recording for the following: reproduction, distribution, making a work public to the extent that the public can individually choose the place and time of the its availability, and commercial broadcasting (Articles 76 and 77 of the Copyright Act).

- **Broadcasting Organizations**

Broadcasting organizations have an exclusive economic right to license the use of it programs for the following: broadcasting or communication to the public by other broadcasting organizations, fixation, reproduction after fixation, and making a work public to the extent that the public can individually choose the place and time of the its availability (Articles 80 and 83 of the Copyright Act).

- **Film Producers**

Film producers have an exclusive economic right to license the use of a film for the following: reproduction, distribution and lending to the public, and making a film public to the extent that the public can individually choose the place and time of the its availability (Article 82 of the Copyright Act).

- *Exceptions and Limitations to Copyright / Permitted Acts in Relation to Copyright Works*

The Copyright Act includes general provisions for the “free use” of works, in addition to other limitations to copyright. These provisions can be found in Chapter IV of the Copyright Act.

As long as the free use does not conflict with the normal exploitation of the work or prejudice the legitimate interests of the author, the payment of a fee or remuneration to the author is not required. Only works disclosed to the public may be used freely pursuant to the provisions of the Copyright Act (Article 33 of the Copyright Act).

The following uses qualify as free use under the Copyright Act: (a) citations of a work with indication of the source and author; (b) usage of literary or musical works for teaching and scientific research; (c) copying of works for private purposes, however this does not apply to architectural works, engineering structures, software and databases operated by a computer device, the fixation of a public performance of a work on a video or sound carrier, and users cannot intend to earn income; (d) the copying of books or periodicals by hand or typing for private purposes; (e) temporary acts of reproduction for the purpose of enabling a transmission in a network between third parties by an intermediary; (f) ephemeral recording of a work used by a radio or television organization for the broadcast of its own program; (g) use of publicly presented lectures and political speeches with indication of source and author; (h) public disclosure of articles published on current economic political topics with indication of source and author; (i) usage of fine, photographic, architectural or applied art or industrial design as décor in a television program; (j) use of particular works to inform on current events; (k) non-commercial performances of works by amateur theater groups, schools, holiday celebrations, religious ceremonies, and private use; (l) non-commercial uses by disabled persons where the work is related to a given disability; and (m) use of works in court for the purposes of supplying evidence. Special exemptions are also given to libraries, educational institutions and museums, particularly when applied to scientific research, private study and archiving. (Articles 34 to 41 of the Copyright Act).

- *Protection of foreign works*

Article 2 of the Copyright Act extends copyright protection to foreign works only if the author is: (a) a Hungarian national, or (b) entitled to such protection pursuant to an international agreement or by reciprocity.

- *Period of copyright protection*

Under the Copyright Act, an author’s copyright is protected for the life of the author plus 70 years after his death. The 70-year period runs from the 1st of January of the year following the author’s death (for works by joint authors and cinematographic works, the period begins after the death of the last living author). For works by anonymous authors and collective works, the term of protection is 70 years, which begins on the 1st of January following the first disclosure of the work. Where the term of protection is counted from a date other than the 1st of January following the death of the author, the author dying last, or the joint author, and the work is not disclosed to the public within the seventy years’ period following its creation, no further copyright protection is due to the work. (Article 31 of the Copyright Act).

Additionally, protection of economic rights applies to a previously undisclosed work for 25 years from the 1st of January following its initial disclosure, as long as the work is disclosed according to the law (Article 32 of the Copyright Act).

Concerning neighboring rights, the following protection term periods apply: (a) for sound recordings and the performances fixed therein, fifty years from the 1st of January of the year following the one in which the sound recording was first made public, and for fifty years from the 1st of January of the year following the year that includes the date of completion of the sound recording if it was not made public during the given term; (b) for unfixed performances, fifty years from the 1st of January of the year following the one in which the performance was held; (c) for broadcast programs and programs communicated to the public by cable, fifty years from the 1st of January of the year following the one in which the programs were first broadcast or the communication occurred; and, (d) for films, for fifty years from the 1st of January of the year following the one in which the film was released for distribution or first communicated to the public if not released by distribution, or for fifty years from the 1st of January of the year following the one in which the production of the film was completed if the film was not released during the given term (Article 84 of the Copyright Act).

- *Registration*

In Hungary, all authors' rights - moral rights and economic rights – apply from the time of the creation of the work, without any form of registration.

5. International treaties

Hungary is a member of the following International Convention and Treaties on Copyright and Related Rights:

- [Berne Convention on the Protection of Literary and Artistic Works](#)
- [Universal Copyright Convention](#)
- [Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations](#)
- [WTO Agreement on Trade Related Aspects of Intellectual Property Rights](#)
- [WIPO Copyright Treaty \(WCT\)](#)
- [WIPO Performances and Phonograms Treaty \(WPPT\)](#)
- [Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms](#)
- [Treaty on the International Registration of Audiovisual Works](#)

II. Measures and remedies

1. Copyright Infringement

The Copyright Act does not expressly define “copyright infringement,” but all actions or defaults which infringe any of the authors' rights are copyright infringements.

The Copyright Act contains specific provisions for online use of protected works. Therefore, a separate field concerning internet law does not exist. Further, the Copyright Act declares that the author has the exclusive right to communicate her work to the public through the Internet, but the downloading of protected works is authorized for private purposes.

Authors have the exclusive right to communicate their works to the public in a manner other than broadcasting and to authorize the use of the work by other persons. This right applies in particular where a work is made available to the public by cable or any other means or in any other manner so that the members of the public can individually choose the place and time of the availability. (Article 26 of the Copyright Act).

A copy of a work may be made for private purposes if the person does not intend to profit from the copying. However, this provision does not apply to architectural works, engineering structures, software and databases operated by a computer device, or the fixation of the public performance of a work on video or sound carrier. (Articles 35 of the Copyright Act).

Pursuant to Act No. CVIII of 2001 on electronic commerce services and information, content providers bear responsibility regarding Internet copyright infringement.

2. Remedies to Protect Copyright Holders

The Copyright Act provides remedies for infringement under Hungary's Criminal Code, as required by the TRIPS Agreement. The Copyright Act also provides civil remedies in connection with the EC's Enforcement Directive. Further, Act No. CVII of 2001 on electronic commerce services and information imposes on internet service providers the obligation of cooperating with notice-and-take-down-procedure, in order to be exempt from liability. The Committee of Copyright Experts and Hungary's Arbitration Board also resolve parties outside of the courts.

3. Provisional measures

When the copyright holder has begun copyright-infringement litigation in court, the rightholder can temporarily require measures for the special protection of her rights if she can prove that she has every right to proceed in the case. (Articles 94 of the Copyright Act).

4. Penalties for copyright infringement

- *In civil cases*

Under Chapter XIII of the Copyright Act, an author can demand several civil law penalties in the event of copyright infringement. Such penalties include: general remedies for infringement, termination of the infringement and restoration of pre-infringement conditions, public statements by the infringer, release of information by the infringer regarding other parties taking part in the infringement, recovery of the infringer's enrichment, compensatory damages in accordance with Hungarian tort liability, destruction of infringing material and the materials and implementations used therein, and other civil consequences. Such measures may be ordered at the infringer's expense. (Articles 94 of the Copyright Act).

- *For criminal offence in copyright cases*

Generally, courts order monetary fines. For more serious cases, courts impose prison sentences, ranging from two to eight years.

- *Seizure, confiscation, forfeiture and/or the destruction of all infringing copies and all equipments or devices used in the manufacture of the infringing copies*

Courts can seize the materials and equipment used exclusively or primarily for the infringement of a copyrighted work. Courts can also seize goods resulting from infringement, or they can recall, destroy or definitively remove such goods from commercial circulation.

- *Penalties include the publication of the judgment in newspapers or professional magazines*

Publication is required upon the authors' request.

- *Payment to the copyright holder of adequate damages to compensate the injury can include appropriate attorney's fees and profits of which the copyright holder has been deprived*

Authors whose works have been infringed can recover the enrichment gained by the infringer, and the author also can demand compensation for damages in accordance with the provisions on tort liability. Additionally, the defeated party is responsible for paying attorney's fees.

5. Requirements for foreign persons

According to Article 5 of the Berne Convention for the Protection of Literary and Artistic Works, foreign copyright holders receive the same copyright protection as domestic right holders.

III. Enforcement

1. Enforcement authorities

a) Authorities responsible for enforcing the copyright law

The civil courts can enforce copyright law by virtue of the rightholder's legal actions. The investigative authorities also take measures, for example seizure of infringing materials, and they often initiate criminal proceedings. Criminal courts also enforce copyright law.

b) Enforcement bodies entitled to act ex-officio in copyright infringement cases

Under Act No. XIX of 1998, investigative authorities can initiate and conduct criminal proceedings by virtue of suspicion of a crime.

c) Courts dealing with copyright cases

Hungary does not have specialized courts for intellectual property rights matters. Under Hungary's Civil Proceeding Law (Act. No III of 1952 on Civil Proceeding Law), litigation concerning copyright infringement falls within the competence of county courts.

However, under Act No. XIX of 1998, criminal cases in connection with intellectual property rights fall within the competence of local courts.

2. Enforcement at the border

Under the Copyright Act, authors may require customs authorities to take measures for preventing circulation of infringing goods. The Regional Commands of the Finance Guard is responsible for copyright enforcement at the border. These authorities impose security assurances to prevent

copyright abuses, which include notification to both the copyright owner and importer of the suspension of the release of goods by customs (there is a 20 day time limit for suspension of goods by customs). These authorities may also order the destruction or disposal of infringing goods, and the customs authorities are entitled to act ex-officio in copyright infringement cases. Hungarian law does not provide for a de minimis import.

IV. Public Awareness

- 1. Awareness campaigns and actions**
- 2. Promotion of legal exploitation**
- 3. Associations and organizations with awareness-raising purposes**
- 4. Best practices**

V. Capacity-building

1. Training

The Ministry of Justice and the Ministry of Interior provide anti-piracy trainings.

2. Establishment of specialized units and inter-sectoral groups

Hungary does not have separate units within its enforcement bodies for intellectual property protection.

However, the Hungarian Government created the National Association Against Counterfeiting in 2008. This association fights against counterfeiting.

3. Best practices

VI. Other

1. TPM/DRM

Pursuant to the Copyright Act, the consequences of copyright infringement apply to those that circumvent any effective technological measures designed to provide protection for copyright. Such consequences apply where the infringer carries out the action with the knowledge, or with

reasonable grounds she should have the knowledge, that the act aims to circumvent the effective technological measures. Thus, this provision can only be applied in cases of bad faith.

2. Licensing Schemes

3. Optical discs

4. Hotlines

5. Additional Contacts

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