

Copyright Act

Copyright to literary and artistic works.

I. Section.

The work.

Works of literature and art.

§ 1. (1) works within the meaning of this Act are unique intellectual creations in the fields of literature, music, art and cinema.

(2) A work as a whole and in its parts enjoys copyright protection under the provisions of this Act.

Works of literature.

§ 2. Works of literature for the purposes of this Act are:

1. Language works of all kinds, including computer programs (§ 40a);
2. Stage works, the printouts of which are conditions and other physical movement (choreographic and pantomimic works);
3. Works of scientific or illustrative nature consisting of figurative representations in the surface or in the room, except where they are not part of the works of art.

Works of art.

§ 3. (1) the works of art of art within the meaning of this Act also include the works of art (light works), architectural art and used art (the arts industry).

(2) Works of photo imaging (light works) are works produced by a photographic process or a process similar to photography.

Works of art.

§ 4. Works of film art (film work) are understood to mean drive works, as a result of which the processes and actions forming the subject matter of the work are displayed either merely for the face or simultaneously for the face and hearing, without regard to the nature of the process used in the production or performance of the work.

Adaptation.

§ 5. (1) translations and other adaptations, insofar as they are an original intellectual creation of the adapter, are, without prejudice to the copyright law existing on the work processed, such as original works.

(2) The use of a work in the creation of another does not make it an adaptation if it constitutes an independent new work compared to the work used.

Collection plants.

§ 6. Collections which represent a unique intellectual creation as a result of the bringing together of individual contributions to a single whole are protected by copyright as a collective work; the copyright that may exist for the recorded contributions remains unaffected.

Free works.

§ 7. (1) laws, regulations, official occasions, publications and decisions, as well as official works made exclusively or mainly for official use of the type referred to in Section 2 (1) or (3) do not enjoy copyright protection.

(2) Land maps produced or processed by the Federal Office for oak and surveying (Section 5 (1)) and land maps intended for distribution (§ 16) are not free works.

Published works.

§ 8. A work is published as soon as it has been made available to the public with the consent of the beneficiary.

Works that appeared.

§ 9. (1) a work has appeared as soon as it has been made available to the public, with the consent of the proprietors, by the fact that workpieces have been offered for sale or placed on the market in sufficient number.

(2) A work that appeared in Austria and abroad within a period of 30 days is one of the works published in Austria.

II. Section.

The author.

§ 10. (1) the author of a work is who created it.

(2) In this law, the expression ‘author’ includes, in addition to the creator of the work, if the contrary is not apparent from the reference to the provision in paragraph 1, the persons to whom the copyright has passed after his death.

Co-owner.

§ 11. (1) if several of them have jointly created a work in which the results of their creation form an inseparable unit, copyright is jointly owned by all joint authors.

(2) Any co-owner is entitled, on his own behalf, to bring proceedings against copyright infringements before the courts. The agreement of all co-authors is required in order to alter or exploit the work. If a joint officer refuses his or her consent without sufficient reason, any other competitor may bring an action against his or her granting of his or her consent. If the defendant does not have a general jurisdiction in Austria, the courts in whose Sprengel is the first city of Vienna are competent.

(3) The connection of different types of works — such as that of a work of sound art with a language work or a film work — does not in itself constitute a co-ownership.

Presumption of authorship.

§ 12. (1) a person who is normally designated as author on the duplications of a work of art or on an original of a work of art shall, until proof of the contrary, be deemed to be the author (Section 10 (1)) of the work if the designation exists in the indication of its true name or a ceiling or ceiling of such a work that he is aware of.

(2) The same applies to what is referred to as author in the case of a public submission, public performance or demonstration, radio broadcast or making available to the public of the work in the manner referred to in paragraph 1, unless the presumption of authorship referred to in paragraph 1 applies to another.

Unnamed author.

§ 13. As long as the author (Section 10 (1)) of a published work has not been designated in a manner establishing the presumption of authorship pursuant to § 12, the publisher or, if this is not specified on the workpieces, the publisher is deemed to be authorised by the author to manage the copyright. In such a case, the publisher or publisher is also entitled to take legal action against copyright infringements in their own name.

III. Paragraph Copyright.

1. Exploitation rights.

§ 14. (1) with the limitations imposed by the law, the author has the exclusive right to exploit the work in the ways reserved to him by the following provisions (exploitation rights).

(2) The author of a translation or other processing may exploit these in the ways reserved to him only if the author of the work processed grants him the exclusive right or authorisation to do so (right of processing or translation).

(3) The public communication of the content of a work in literature or film art is reserved for the author, as long as neither the work nor its essential content is published with the consent of the author.

Reproduction right.

§ 15. (1) the author has the exclusive right to reproduce the work in any process, in what quantity and whether temporarily or permanently.

(2) Reproduction also consists, inter alia, in maintaining the presentation or performance of a work on means of repeated reproduction for the face or hearing (image or sound carriers), such as for example on film strips or records.

(3) Such sound recording media are equivalent to the repeated reproduction of works, which are produced without sound recording by holes, punching, fastening pens or in a similar way (trimhorgels, musical boxes and the like).

(4) In the case of plans and designs relating to works of art, the reproduction right also includes the exclusive right to carry out the work thereafter.

Distribution right.

§ 16. (1) the author has the exclusive right to distribute pieces of work. By virtue of that right, works may not be exhibited or placed on the market in a way that makes them available to the public without his consent.

(2) As long as a work has not been published, the distribution right also covers the exclusive right to make the work available to the public by means of public display, display, display, display or similar use of works.

(3) The distribution right is not subject to the distribution right, subject to § 16a -workpieces which have been placed on the market, with the consent of the beneficiary, in a Member State of the European Community or in a state party to the European Economic Area.

(4) The distribution right existing in a work of art is not subject to works that are part of an item of real estate.

(5) Where this law makes use of the expression 'distributing a work', it is only to be understood as meaning the distribution of works reserved to the author under paragraphs 1 to 3.

Leasing and lending

§ 16a. (1) Section 16 (3) shall not apply to the rental (para. 3) of workpieces.

(2) Section 16 (3) applies to the lending (subsection 3) of workpieces, provided that the author has a right to reasonable remuneration. Such claims can only be asserted by CMOs.

(3) For the purposes of this provision, rental is to be understood to refer to the time-limited transfer of use for the purpose of acquisition, including lending for temporary use for non-marketing purposes by an establishment accessible to the public (library, image or sound recording, artothèque and the like).

(4) Paragraphs 1 and 2 shall not apply:

1. for rental and lending for the purpose of broadcasting (§ 17), as well as public submissions and presentation and presentation (§ 18),
2. works of art applied to works of art (the arts and crafts).

(5) If a person entitled to use a work or a film producer entitled under § 38 (1) allows others to rent or borrow work items, then the author has an indispensable right to a reasonable proportion of that compensation against the person entitled to use the work or the film producer. If the claim for remuneration relates to the lending of workpieces under the law or to another on the basis of a contract, the author has an indispensable right to a reasonable proportion of the remuneration.

Read as follows

§ 16 (b). (1) Section 16 (3) applies to the resale of the original of a work of art after the first sale by the author, with the proviso that the author has a right to remuneration against the seller in the amount of the following proportion of the sales price free of tax (subsequent payroll):

4 %	of the first	EUR 50,000;
3 %	of the others	EUR 150,000;
1 %	of the others	EUR 150,000;
0.5 %	of the others	EUR 150,000;
0.25 %	of any further amounts;	

however, the total amount of the royalty may not exceed EUR 12,500.

(2) The entitlement to the subsequent fee is only payable if the sales price is at least EUR 2,500 and a representative of the art market — such as an auctioneer, art gallery or any other artist — is involved in the sale as seller, purchaser or broker; these persons are liable as brushes and payors, provided that they are not subject to payment themselves. The right may not be waived in advance. The resale right may also be relied upon by a collective management organisation; furthermore, this right is inalienable. for the rest, the claim is inextricable. Section 23 (1) shall apply mutatis mutandis.

(3) Items of originality within the meaning of subsection (1) shall be considered to be original.

1. have been made by the author himself,

2. which have been produced in limited edition by the author himself or under his or her management and are normally numbered and signed by the author or authorised in some other appropriate manner;
3. which are otherwise regarded as original.

(4) There is no entitlement to the subsequent fee if the seller acquired the work from the author less than three years ago and does not exceed EUR 10,000.

Mustard rights.

§ 17. (1) the author shall have the exclusive right to broadcast the work by radio or similar.

(2) It is tantamount to a radio programme if a work is made perceptible by an office located in or abroad from the public in Austria, similarly to radio, but by means of cables.

(3) The simultaneous complete and unchanged transmission of radio broadcasts of the Austrian radio with the aid of cables in Austria is considered to be part of the original radio broadcast.

(4) If a radio contractor broadcast a work by means of a technical process that is not a radio contractor (signal distributors) without being made available to the public during such transmission (direct induction), and if the signal distributor allows the work directly to be perceived to the public, the radio contractor and the signal distributors are deemed to be a participant in a single broadcast in which they are involved through their respective contributions and in respect of which they each have to obtain the author's authorisation. This does not apply if the radio contractor also broadcast the work itself. The right to perceive a work as a signal spreader directly to a public can only be invoked by CMOs. § § 59a and 59b must be applied.

§ 17a. If the programming signals are encrypted, there is only a radio broadcast if the means for decryption the broadcast have been made available to the public by the broadcasting company itself or with its consent.

§ 17 (b). (1) in the case of radio broadcast via satellite, the act of exploitation reserved to the author lies in the entry of the programmed signal bearing the control and responsibility of the broadcasting proprietor in an uninterrupted communication chain which leads to the satellite and back to the earth. Subject to paragraph 2, the broadcast by satellite therefore takes place only in the country in which this entry is made.

(2) Where the submission referred to in paragraph 1 takes place in a state which is not a Member State of the European Economic Area and where the level of protection provided for in Chapter II of the Council of the European Communities of 27 September 1993 on the coordination of certain copyright and performance requirements relating to satellite broadcasting and cable retransmission is not guaranteed, the broadcast shall take place.

1. in the Member State of the European Economic Area where the radio station is located, from which the programmable signals are led to satellite;
2. if the condition under point 1 is not met, the Member State of the European Economic Area in which the principal place of business of the radio operator that commissioned the entry within the meaning of paragraph 1 is present.

(3) In the cases referred to in paragraph 2, the operation of the radio station or the order to enter within the meaning of subsection 1 is deemed to be a transmission within the meaning of Section 17 (1).

Law on presentation, performance and presentation.

§ 18. (1) the author shall have the exclusive right to present or list a linguistic work publicly, a work of the type designated in § 2, point 2, or a work of sound or a film, and to present a work of the visual arts publicly by means of optical facilities.

(2) It makes no difference whether the recitation or performance takes place directly or through the use of visual or audio media.

(3) Public lectures, presentations and presentations also include the use of a radio broadcast or the making available to the public of a work to make a public representation of the work that is broadcast or made available to the public by loudspeakers or by any other technical device, as well as the public reproduction of lectures, presentations or presentations of a work outside the place (theatre, room, garden, etc.) acting in such a way, where they take place. Uses that are subject to the right of presentation, performance or presentation are not subject to broadcasting rights and vice versa. The transmission of radio programmes carried out by the same person within the device operated thereby for public communication purposes is part of the public communication and is not subject to broadcasting rights.

The last two sentences also apply to the rights of persons entitled to performance protection, without prejudice to the specific arrangement of the rights.

Right of availability

§ 18a. (1) the author has the exclusive right to make the work available to the public, wirelessly or wireless, in such a way as to be accessible to members of the public from places and at the time of their choice.

(2) If this law makes use of the expression ‘make a work available to the public’ or ‘making a work available to the public’, this is only to be understood as meaning the exploitation reserved to the author pursuant to paragraph 1.

Complementary online services

§ 18 (b). (1) if a radio undertaking provides additional material (complementary online service) at the same time, or for a limited period of time after the transmission of the programmes or such programs, the exploitation act on which such supplementary broadcast or provision is based and a reproduction necessary for the provision, access or use of the programmes only takes place in the country in which the radio undertaking, under his control and responsibility, has the programmes or supplementary material is provided. However, this only applies to complementary online services, which are clearly related to the broadcast of the radio provider’s programmes and are subordinate thereto.

(2) Paragraph 1 shall apply

1. for radio programmes and

2. Television programmes that are news programmes or programmes for current events or entirely financed by the broadcasting company, except for sports events and in such works or other subject matter.

(3) When calculating the remuneration for a complementary online service, all aspects of the service, such as its characteristics, the period during which the programmes provided are available online, the public and the language versions provided must be taken into account. This does not rule out the calculation of the amount of the compensation on the basis of the radio provider’s income.

(4) Paragraphs 1 to 3 are without prejudice to the freedom of the rightsholder and the broadcasting contractor to contractually limit the exploitation of such rights in accordance with Union law.

(5) Paragraphs 1 to 3 are only to be applied to a supplementary online service provided under the control and responsibility of a broadcasting contractor with its principal place of business in a Member State of the European Union or a party to the Agreement on the European Economic Area.

Transmission and provision by suppliers of large online platforms

§ 18c. Subject to the requirements of Section 17 (1) and (2) and § 18a, a broadcast or a work is also made available to the public who, as a provider of a large online platform, provides the public with access to copyright-protected works uploaded by its users. He therefore obtained the author’s authorisation. Provider of a large online platform is the provider of an information society service (Section 1 (1) (2) of the Communication Act 1999 — NotifG 1999, ared I I No 183/1999), if it plays an important role on the market for online content services by providing online content services such as audio and video streaming services for the same target groups and one of the main purposes of the service is to store a large amount of works uploaded by its users and to provide the public with access to and publicity content. Providers of services such as non-profit online encyclopaedias, non-profit educational, artistic and scientific receptions, development and expansion platforms for cell software, providers of electronic communication services within the meaning of Section 4 point 4 of the Telecommunications Act 2021 — TKG 2021, sheets I No 190/2021, online marketplaces, cloud services provided between companies and cloud services, which enable their users to upload content for their own use, are not service providers in the sense of this intended purpose.

2. Protection of intellectual interests.

Copyright protection.

§ 19. (1) if the authorship of a work is disputed or the work is attributed to someone other than its creator, he or she is entitled to claim authorship for him. After his death, in this case the person to whom the copyright has passed has the right to safeguard the authorship of the creator of the work.

(2) A surrender of this right is ineffective.

Copyright designation.

- § 20. (1) the author shall determine whether and with which copyright the work is to be provided.
- (2) An adaptation may not be provided with the title of a work in a manner that gives the appearance of an original work.
- (3) Copies of works of art must not give the appearance of a work of originality through the copyright designation.

Protection of works.

- § 21. (1) where a work is used in a way that makes it available to the public or is reproduced for the purpose of distribution, the person entitled to such use of the work may also not make any restrictions, additions or other modifications to the work itself, the title or denomination of which, unless the author agrees or allows the law to amend it. In particular, modifications which may not prohibit the author from using the work in accordance with the habits and customs applicable in the bona fide public, namely amendments that are demanded by the nature or purpose of the permitted use of the work, are permissible.
- (2) Paragraph 1 shall apply to originpieces of works of art, even if the originals are not used in a manner which makes the work available to the public.
- (3) Giving consent to alterations not specified in more detail does not prevent the author from opposing destructions, mutilations and other alterations to the work that seriously prejudice his or her intellectual interests in the work.

3. Obligations of the owner of a workpiece.

§ 22. The holder of a work shall make it available to the author on request, to the extent necessary in order to be able to reproduce the work; in this respect, the author must take account of the interests of the owner accordingly. The owner is not obliged to spend out the work to the author for the stated purpose; nor is he obliged, in respect of the author, to ensure that the work is preserved.

4. Copyright transfer.

- § 23. (1) copyright is inherited; in accordance with an order made on the event of death, it may also be transferred to special successor.
- (2) If the ownership of a co-owner is acquired by no-one and is also not taken over as a mere asset by the state, the co-copyright right extends to the other co -authors. The same applies in the case of the surrender of a competitor's copyright, insofar as this surrender takes effect.
- (3) Moreover, copyright is not transferable.
- (4) If copyright is extended to several persons, the provisions applicable to joint authors (§ 11) are to be applied accordingly.

5. Authorisation to use a work and the right to use a work.

- § 24. (1) the author may allow others to use the work in individual or all forms of exploitation reserved to the author in accordance with Sections 14 to 18a (permit to use of a work). They may also grant another the exclusive right to do so (right to use a work).
- (2) A permit to use a work, which was granted before granting or transferring a right to use a work, remains effective vis-à-vis the person entitled to use the work if no other agreement is reached with the proprietor of the permit to use the work.

Permit of use of a work or right to use a work for the broadcast or making available to the public pursuant to § 18c

§ 24a. Where the provider of a large online platform has been granted a permit to use the work for the broadcast or making available to the public in accordance with § 18c or has been granted or transferred a right to use a work, the users of that service shall also be allowed to send or make the works concerned available to the public via the online platform, unless those users act on the basis of a commercial activity or obtain significant income from their activity. A licence granted to the user also entitles the provider of the service to permit use.

Contract assistance for the provision of audiovisual works via video-retrieval services

§ 24 (b). Where a contract for the granting of access to audiovisual works through video retrieval services is not drawn up, any of the Parties may request contract assistance to the Conciliation Committee (§ 82 of the Rules of Procedure of 2016, art. 1. I No 27/2016). The Conciliation Committee may submit proposals to the Parties.

Purpose transfer principle and unknown types of exploitation

§ 24c. (1) if, in a permit to use a work or when granting a right to use a work, the methods of exploitation are not expressly designated individually, the purpose of the contract used as a basis by both contracting partners is determined to which methods of exploitation it covers. The same applies to the question of whether a permit to use a work or a right to use a work has been granted, how far the authorisation and the right granted are sufficient and which restrictions they are subject to. The purpose transmission principle does not apply to works created in the context of employment law and to works which constitute a secondary contribution in relation to the work as a whole.

(2) A contract by means of which the author grants a permit to use a work or grants a right of use for a method of exploitation that is unknown at the time of its conclusion requires a written form. The author can revoke this permit to use a work or this right to use a work. The right of attorney shall lapse after the expiry of three months after the contracting partner has sent the notification of the intended commencement of the new type of exploitation to the author at the last known address. The right of attorney cannot be waived in advance.

(3) The right of ownership does not apply to a film work or a work used to produce a film work. Furthermore, the right of ownership does not exist where the author has made only a subordinate contribution to a work, product or service, in the case of works created under a employment law relationship, or when an additional adequate compensation for the unknown method of exploitation has been agreed separately.

6. Enforcement restrictions.

§ 25. (1) rights of exploitation are removed from enforcement for monetary claims.

(2) The enforcement conducted on account of a monetary claim for an item of work is inadmissible if the sale thereof would infringe the distribution right of the author or a person entitled to use the work.

(3) Paragraph 2 shall not apply to items of work protected by the party entitled to distribution or with his/her consent for the time of seizure.

(4) In the case of works of art, the distribution right does not prevent the enforcement of works provided for sale by the person entitled to distribution.

(5) Means which are intended exclusively for reproduction of a work (such as forms, plates, stones, wooden sticks, film strips and the like) and which belong to one of them may, because of a monetary requirement, only be drawn equally to a belong to the reproduction right in enforcement.

(6) The same applies accordingly to means which are intended exclusively for the performance of a film work (film strips etc.) and one entitled thereto.

IV. Section.

Rights of use of works.

§ 26. The manner in which and within what geographical and temporal limits the work may be used by a person entitled to use a work (sentence 2 of Section 24 (1)) depends on the contract concluded with the author. Insofar as the right of use of the work is sufficient, the author must also pursue, in the same way as a third party, and without prejudice to his right to have copyright infringements, the use of the work. With the expiry of this obligation, the right of exploitation acquires its earlier power.

Transfer of the rights of use.

§ 27. (1) rights of use of a work are inherited and alienated.

(2) As a rule, a right to use a work can only be transferred to special successors with the consent of the author. Approval can only be refused for an important reason. It shall be deemed to have been granted if the author does not refuse it within two months of receipt of the written request from the person entitled to use the work or the person to whom the right of use is to be transferred; this effect must be expressly indicated in the invitation.

(3) Anyone who acquires a right to use a work by way of special succession is required, in place of the seller, to meet the liabilities incumbent upon him under the contract concluded with the author. For the remuneration due to the author and for the damage which the buyer has to reimburse to the author in the event of failure to comply with any of the obligations arising from this contract, the seller is liable to the author, such as a brush and seller.

(4) Agreements concluded by the seller with the buyer without the consent of the author, which contradict paragraph 3 to the detriment of the author, shall be effective against the latter.

(5) The liability of the purchaser for a claim for damages incurred by the author before the purchase was made against the seller is determined by the general provisions.

§ 28. (1) if nothing else is agreed, a right to use a work may be transferred to another undertaking with the undertaking to which it belongs or with such a branch of the undertaking, without the author having the consent of the author.

(2) Furthermore, if the person entitled to use the work is not obliged to exercise his right and has not agreed otherwise with the author, without his consent:

1. Rights of use to language works and works of the type designated in § 2, point 3, which are created either at the request of the person entitled to use the work in accordance with its plan designating the content and the nature of the treatment, or merely as an auxiliary or ancillary activity for a third -party work;

2. Rights to use the work in respect of works of art (photographic images) and arts and crafts created on order or in the service of a commercial undertaking for the latter.

Early termination of the contractual relationship.

§ 29. (1) if a right to use a work is not made at all, or is made in such insufficient manner, for the purpose of ordering it, that the author's important interests are adversely affected, if there is no fault to do so, the latter may, in so far as it relates to the right of use of the work, terminate the contractual relationship prematurely.

(2) The dissolution can only be explained after the expiry of a reasonable period of grace granted by the author to the person entitled to use the work. There is no need for a grace period if the exercise of the right to use the work is impossible or refused by the purchaser or if the granting of a grace period prejudice the predominant interests of the author.

(3) The right to terminate the contract relationship for the reasons referred to in paragraph 1 cannot be dispensed with in advance for a period exceeding three years. This time limit does not include the time during which the entitled person entitled to use the work was prevented by circumstances on the part of the author from using the work.

(4) The validity of the declaration made by the author to terminate the contractual relationship cannot be disputed if the person entitled to use the work does not refuse this declaration within 14 days after receipt thereof.

§ 30. (1) in the case of the rights to use the work designated in § 28 (2), (1), and (2), the provisions of § 29 shall apply only if the person entitled to use the work is obliged to exercise its right of use.

(2) The provisions of § 29 do not affect the rights conferred on the author by contract or law, to cancel out the contract for other reasons, to demand the termination of the contract or to demand its performance, and to claim compensation for non-observance.

Rights of use of works in respect of future works.

§ 31. (1) works that are first to be created can also be obtained in advance.

(2) Where the author has committed himself to granting another use of a work to all unspecified or only the genus according to certain works which he will establish during his life or within a period exceeding five years, any part of the agreement may terminate the contract as soon as it has been concluded for five years. The right of termination cannot be waived in advance. The period of notice will be three months unless a shorter time limit is agreed. Termination of the contract only terminates the contract with regard to works that have not yet been completed at the time when the notice period expires.

(3) Paragraph 2 shall not affect other rights to cancel the contract.

Right to other exploitation after 15 years in the case of lump-sum compensation

§ 31a. (1) if the author has granted a right of use for a general fee, he or she is entitled to exploit the work in some other way after the expiry of 15 years. For the remaining duration of the granting of the right to use the work, this is replaced by a permit to use a work. The time limit starts with the granting of

the right to use the work or, if the work is delivered later, with the delivery. The second sentence of § 37a shall be applied mutatis mutandis.

(2) At the latest after the expiry of five years from the beginning of the period referred to in paragraph 1, contractual partners may extend the exclusion to the entire period of the granting of rights of use in written form.

(3) Paragraphs 1 and 2 shall not be applied if:

1. the author makes only a subordinate contribution to a work, product or service; a contribution is of secondary importance in particular if it does not determine the overall impression of a work or the quality of a product or service, for example because it does not form part of the typical content of a work, a product or a service.
2. the work was created under an employment relationship;
3. the work is intended with the consent of the author independently of a registration for a trade mark or other sign, design or Community design; or
4. the work is not intended to be published.

Insolvency proceedings

§ 32. (1) if the author has granted another the exclusive right to reproduce and distribute a work, and insolvency proceedings are opened in relation to the assets of the person entitled to use the work, the application of the provisions of the insolvency rules relating to bilateral contracts that have not yet been fulfilled is not excluded by the fact that the author gave the person entitled to use the work the work to be reproduced before the insolvency proceedings were initiated.

(2) If, at the time of the insolvency proceedings, the reproduction of the work has not yet been initiated, the author may withdraw from the contract. At the request of the debtor or the liquidator, the insolvency court must specify a time limit, once the author can no longer declare the withdrawal.

V. Section.

Reservations in favour of the author.

Rules of interpretation.

§ 33. (1) if the contrary has not been agreed, the granting of the right to use a work does not extend to translations and other adaptations, granting of the right to reproduce a work in literature or music, not to the reproduction of the work on image or sound recording media and to the granting of the right to transmit a work (§ 17), and not to the right to record the work on image or sound carriers during the broadcast or for the purposes of the broadcast.

(2) In case of doubt, the granting of a right to use a work or the granting of a permit to use a work is not contained in the transfer of ownership of a piece of work.

Total expenditure.

§ 34. The author, who has granted the other the exclusive right to reproduce and distribute a work of literature or musical art, nevertheless retains the right to reproduce and distribute the work in an overall edition as soon as it has expired since the end of the calendar year in which the work appeared. This right cannot be limited or cancelled by contract.

Reservation for works of art.

§ 35. The author, who has granted another the exclusive right to reproduce and distribute a work of art, nevertheless retains the right to reproduce and distribute it in essays about the artistic activity of the creator of the work or as a specimen of his work.

Contributions to collections.

§ 36. (1) if a work is accepted as a contribution to a periodical collection (newspaper, periodical, Jahrbuch, Almanach and the like), the author remains entitled to reproduce and distribute the work elsewhere if no different agreement is agreed and, if it is not apparent from the circumstances, that the publisher or publisher of the collection is intended to acquire the right to reproduce and distribute the work as an exclusive right in the sense that the work may not otherwise be reproduced or distributed.

(2) Such an exclusive right lapses in the case of contributions to a newspaper just after the publication of the contribution in the newspaper. In the case of contributions to other collections that appear at a later date, as well as contributions that are accepted as non-monthly collections and for whose release the

author is entitled to no compensation, such an exclusive right lapses if a year has elapsed since the end of the calendar year in which the contribution appeared in the collection.

§ 37. If the publisher or publisher of a periodical collection assumes a work as a contribution and nothing is agreed over time when the contribution in the collection is to be reproduced and distributed, the publisher or publisher is in doubt not obliged to do so. In this case, however, the author may declare the right of the publisher or publisher to lapse if the contribution does not appear in the collection within one year of delivery; the author's claim to the remuneration remains unaffected. Section 29 (4) shall apply *mutatis mutandis*.

Two-exploitation right of authors of scientific contributions

§ 37a. The author of a scientific contribution, created by the latter as the equivalent of the scientific personnel of at least half of the research body financed by public resources and which appeared in a collection that has appeared at least twice a year every year, shall have the right, even if he has granted the publisher or publisher a right to use a work, to make the contribution publicly available after the expiry of twelve months from the date of first publication in the accepted manuscript version, unless this serves no commercial purpose. The source of first publication must be indicated. An agreement which differs to the detriment of the author is ineffective.

VA. Paragraph

Fair remuneration in exploitation agreements with authors

Principle of reasonable and fair remuneration

§ 37 (b). (1) copyright protects the author in his/her intellectual and personal relationship with the work and in the use of the work. At the same time, it serves to ensure adequate remuneration for the use of the work.

(2) The author who has granted the other the exclusive right to use the work in one or all of the forms of exploitation reserved under Sections 14 to 18a, or who has authorised such use, shall receive reasonable and fair remuneration for that purpose. This does not preclude the agreement on lump-sum allowances, insofar as account is taken of the economic value of the rights concerned, the author's contribution to the work or the connection of several works, and the market conditions customary in the sector. Unless the author has already otherwise owned his rights, this provision does not prevent him from allowing him to use the work free of charge in respect of individual or all forms of exploitation reserved under § § 14 to 18a.

(3) Remuneration is appropriate if, at the time of the conclusion of the contract, it corresponds to what has to be done in trade in a regular and honest manner, taking account of all the circumstances.

(4) If, at the time the contract is concluded, the remuneration corresponds to a remuneration rule in a collective agreement, it is considered appropriate for that professional group. This also applies to remuneration based on a remuneration rule agreed upon by representative associations of authors and creators. Rules in collective agreements apply to different rules, in particular those agreed by representative associations of authors and creators. An association is representative if its field of action covers the entire territory of the Republic of Austria and the number of members of the association includes the vast majority of the members of the relevant professional group. Agreements on remuneration rules may only be concluded if the representative capacity of an association has been definitively established by the collective management authority (Section 83 of the German Civil Code 2016). Articles 101 and 102 TFEU and Section 1 of the Antitrust Act 2005, breaches I No 61/2005, remain unaffected.

(5) The collective management authority (Section 83 of the German Copyright Act 2016) must determine the representation pursuant to paragraph 4 at the request of the collective management organisations and provided that the conditions are met. In any case, it must be explained in the application for which professional group the applicant intends to conclude agreements pursuant to paragraph 4. The General Administrative Procedure Act 1991, bread No 51/1991, is to be applied to the proceedings. The relevant professional groups must be consulted before being granted representative status. Representative may be denied at any time for a soft reason; such a reason is, in particular, the case where the number of members represented is no longer sufficiently representative or the association does not sufficiently fulfil its obligations or breached its obligations in terms of size. Deciding on complaints against decisions of the collective management authority (§ 83 of the 2016 Rules of Procedure).

(6) In the absence of agreement on common remuneration rules, any of the Parties may request contract assistance to the Conciliation Committee (Section 82 of the Rules of Procedure 2016). The Conciliation Committee may submit proposals to the Parties.

Contract adjustment mechanism

§ 37c. (1) the author shall be entitled to additional, reasonable and fair remuneration than the person to whom he has granted a permit to use a work or a right to use a work if the compensation originally agreed is clearly disproportionately low compared to all later relevant revenue resulting from the exploitation of the work. If the authorisation to use the work or the right to use the work is transferred, the purchaser is directly liable to the author in accordance with the preceding sentence. There is no liability on the part of the seller.

(2) The author is not entitled under subsection 1, insofar as the remuneration was determined in accordance with a remuneration rule pursuant to Section 37b (4) or a collective agreement and this expressly provides for further reasonable remuneration in the case of paragraph 1.

(3) Section 34 of the Rules of Procedure of 2016 remains unaffected.

Right to information

§ 37 (d). (1) anyone who uses a work in return for payment on the basis of a permit to use a work or a right to use a work as a contractual partner of the author must provide the author once a year with current, relevant and comprehensive information relating to the exploitation of his work, in particular about the nature of the exploitation, the revenue achieved and the accrued debt. The information may also be provided by digital provision.

(2) This obligation shall not apply if:

1. the author has made only a subordinate contribution to a work, product or service; a contribution is of secondary importance in particular if it does not determine the overall impression of a work or the quality of a product or service, for example because it does not belong to the typical content of a work, a product or service, unless the author substantiates that he needs the information for exercising his claim under § 37c; or
2. the use of the contracting partner for other reasons is disproportionate.

(3) If the administrative burden is disproportionately high in relation to the revenue generated by the exploitation of the work, the entitlement is limited to the types and scope of the information that can reasonably be expected to be provided in such cases.

(4) Where the contractual partner of the author has transferred rights of use or has granted other uses of a work, the author may also request information from those third parties who exercise these rights of use, insofar as the contractual partner of the author does not have all the necessary information to provide the author with information. To that end, the author's contractual partner must disclose to him the identity of the third party.

(5) The author and his/her contractual partner may agree that the author shall keep the transmitted information confidential, provided that this does not prevent the author from using the information for the exercise of his/her rights under this Act.

(6) Section 41 of the German verwGesG 2016 applies to collective management organisations.

Mediation by the Conciliation Committee

§ 37 (e) In disputes between authors, their contracting parties or third parties regarding the claims under Sections 37c and 37d, the Conciliation Committee (Section 82 of the Rules of Procedure 2016) may be called upon as an intermediary. The parties to the dispute may also be represented by representative associations (Section 37b (4)).

Unmannable

§ 37 (f). (1) the claims under § 37c and § 37d and the mediation pursuant to § 37e or any other form of alternative dispute resolution cannot be surrendered in advance. These provisions are mandatory if Austrian law is applicable to the contract of exploitation in the absence of an agreement between the parties. The claims under § 37c and § 37d and the brokerage under § 37c and § d shall replace the applicable law chosen by the parties if the law chosen by the parties is not the law of another Member State of the European Union or of another Contracting State of the Agreement on the European Economic Area and all other elements of the facts which are the subject of the contract are in such a state at the time of the agreement.

(2) The claim regarding the claim under § 37c is not subject to the levy of execution; an injunction regarding the claim is ineffective.

Exclusion of computer programs

§ 37 G. Articles 24a, 31a, 37b to 37f do not apply to authors of computer programs within the meaning of § 40a.

VI. Paragraph

Special provisions for commercially produced film works.

Rights to the film work

§ 38. (1) anyone who commits to play in the production of a film therefore grants the film producer, in case of doubt, the exclusive right to use the film work as well as translations and other film adaptations or redesign of the film work to all types of exploitation if it acquires a copyright in the film work. Where the author of the film has granted this right of use to a third party in advance, he nevertheless always retains the authority to restrict or grant this right to the film producer without restriction. Copyright in the works used to produce the film work, such as Roman, screenplay and film music, remains unaffected. This paragraph applies accordingly to the rights for the film exploitation of the light imaging materials resulting from the production of a film work. The film producer and the author of the film each have half the statutory remuneration rights of the film author, provided that they are not indispensable.

(1a) the film manufacturer authorised under subsection 1 or a person entitled to use a work, in return for payment, allows the use of a film to simultaneously, complete and unchanged, with the aid of cables, the author shall be entitled to a share of that remuneration; this proportion is one third, unless the film producer has agreed otherwise with the author. If the film producer or the person entitled to use the work also allows use as proprietor of other exclusive rights, and is agreed for this purpose, the author is entitled to the claim under this provision only on the part of the fee that does not consist of the granting of the right to use the work in the film work. The author can directly assert the claim under this provision against the person who is liable to pay the fee if he proves to the latter that the claim has been recognised by the film producer or the person entitled to use the work or established against it by the courts. The author's claim under this provision can only be asserted by CMOs.

(2) Without prejudice to the provisions of § 39 (3), amendments to the film work, its title and the designation of the film manufacturer may only be made without the consent of the film manufacturer, provided that they are permissible under the provision of § 21, paragraph 1, which is applicable to the film producer accordingly.

(3) Up to proof to the contrary, a film producer is considered to be a film producer who, as such, is designated on the copies of a film work in the customary manner by indicating its true name, company name or a ceiling or company sign which he is aware of. The same applies to those which, in the case of a public performance or in the case of a radio programme of the film work, are referred to as film producers, unless the presumption laid down in the previous sentence suggests that film producers are different.

Author.

§ 39. (1) anyone who has participated in the creation of a film work produced commercially in such a way that the overall design of the work has the characteristic of a peculiar intellectual creation may require the manufacturer to be named on the film and in announcements of the film work as its author.

(2) The copyright designation (paragraph 1) is to be cited in the announcements of public performances and of radio broadcasts of the film work.

(3) A change in the film work, its title and the title of a film, which is permissible under § 21 only with the consent of the author, requires the consent of the author referred to in the copyright designation, without prejudice to the provisions of § 38 (2).

(4) In order to exploit adaptations and translations of the film work, in addition to the consent of the film manufacturer, the consent of the authors named in the copyright designation is also required. Unless agreed otherwise by these authors with the film producer, this consent is not required for translations and adaptations, including the completion of the unfinished film work, which, according to the customs and practices applicable in the bona fide public, is necessary for normal exploitation of the film work and does not adversely affect the intellectual interests of the authors in the work.

(Note: Paragraph 5 annulled by ction No 151/1996)

Rights of exploitation and rights of use.

§ 40. (1) the exploitation rights held by the film producer are inherited and alienated and can be drawn into enforcement without restriction. If they are transferred to another, the buyer may also be granted the right to designate himself as the producer of the film work. In this case, the purchaser is still deemed to be a film producer and also enjoys the protection which is to be paid to him pursuant to § 38 (2).

(2) If no other agreement has been made with the manufacturer, rights to use a work in respect of commercially produced films may be transferred to another without his consent.

(3) The provisions of Sections 29 and 31a do not apply to approval of use of a work or to rights of use of works made on a commercial basis.

Via. Paragraph

Specific rules for computer programs

Computer programs.

§ 40a. (1) computer programs are works within the meaning of this Act if they are the result of their author's own intellectual creation.

(2) In this law, the expression 'computer program' covers all forms of expression, including the machine code, and the material for developing the computer program.

Contractor

§ 40 (b). If a computer program is created by a contractor in the performance of his or her duties, the employer is entitled to an unlimited right of use of the work if he has agreed otherwise with the author. In such cases, the employer is also entitled to exercise the rights referred to in § 20 and § 21 (1); the author's right to claim authorship pursuant to § 19 remains unaffected.

Rights of use

§ 40c. If no other agreement has been made with the author, rights to use a work in computer programs may be transferred to another without his consent. The provisions of § 29 do not apply to rights of use of a computer program.

Free use

§ 40 (d). (1) Section 42 does not apply to computer programs.

(2) Computer programs may be copied and processed to the extent necessary for their intended use by the party entitled to use them; this also includes adapting to the needs of the latter.

(3) The person authorised to use a computer program may

1. Produce copies for back-up purposes (back-up copies), to the extent necessary for the use of the computer program;
2. monitor, examine or test the functioning of the programme to determine the ideas and principles underlying a program element when they do so through acts of loading, displays, switching, transmitting or storing the program to which it is entitled.

(4) The rights under paragraphs 2 and 3 cannot be validly surrendered; this does not rule out agreements regarding the extent of intended use within the meaning of para. 2.

Decalcification

§ 40 (e) (1) the code of a computer program may be reproduced and its code translated provided that the following conditions are fulfilled:

1. The actions are essential in order to obtain the necessary information to achieve interoperability between an independently created computer program and other programs;
2. the acts are carried out by a person authorised to use the copy of a computer program or, in the name of that person, by an authorised person;
3. the information necessary for achieving interoperability is not yet easily accessible for the persons referred to in point 1; and
4. the acts are limited to those parts of the programme which are necessary to achieve interoperability.

(2) The information obtained in accordance with subsection 1 may not

1. to be used for goals other than to achieve the interoperability of the independently created computer program;
 2. to be given to others, except when necessary for the interoperability of the independently created computer program;
 3. for developing, reproducing or distributing a program with substantially similar forms of expression or for other acts infringing copyright.
- (3) The right of deception (para. 1) cannot be effectively waived.

VIb. Paragraph

Special provisions for database works

Databases and database materials

§ 40 (f). (1) databases within the meaning of this Act are collections of works, data or other independent elements which are systematically or methodically arranged and individually accessible by electronic means or by other means. A computer program used to create or operate an electronically accessible database is not part of the database.

(2) Databases are protected as collectors (§ 6) if, as a result of the selection or arrangement of the material, they are a unique intellectual creation (database works).

(3) Sections 40b and 40c apply accordingly to database works.

Restitutio in integrum

§ 40 G. The author has the exclusive right to reproduce a database work publicly.

Free use

§ 40 (h). (1) Section 42 (1), (3) and (4) does not apply to database works. However, any natural person from a database work, whose elements are not individually accessible by electronic means, may produce individual copies for private use and not for direct or indirect commercial purposes.

(2) Section 42 (2) applies to database works, provided that reproduction is also permissible on paper or a similar carrier.

(3) The person authorised to use a database work or part thereof may perform the acts of exploitation that are otherwise reserved to the author, provided that they are necessary for access to the content of the database or part thereof or for its use in accordance with its intended purpose. This right cannot be validly surrendered; this does not rule out agreements on the extent of the intended use.

VII. Section.

Limitations on rights of exploitation.

1. Free use of the work.

Free use of works in the interest of the administration and administration

§ 41. The use of a work for public security purposes or to ensure the proper conduct of administrative, Parliament or judicial proceedings is not precluded by copyright.

Fleeting and accompanying reproductions

§ 41a. Reproduction is allowed on a temporary basis;

1. when it is curious or accompanied; and
2. where it is an integral and essential part of a technical process; and
3. where their sole purpose is to transfer in a network between third parties through an intermediary or a lawful use; and
4. when it has no independent economic significance.

Reproduction for personal and private use

§ 42. § 42 (1) any person may make individual copies of a work on paper or a similar medium for their own use.

(2) Any person may make single copies, on media other than those mentioned in paragraph 1, of a work for personal use or for research purposes in so far as it is justified by the non-commercial objective pursued.

(3) Any person may make single copies of works which have been published in press reporting for personal use, provided that a similar use is involved.

(4) Any natural person may make single copies of a work on media other than those mentioned in subparagraph 1 for private use and for purposes which are not directly or indirectly commercial.

(5) Subject to paragraphs 6 and 7, there is no reproduction for personal or private use if it is made for the purpose of making the work available to the public by means of the copy or if it is used for an obviously unlawful or publicly available submission. Copies made for private or personal use may not be used to make the work available to the public.

(6) Schools, universities and other educational establishments may produce and distribute copies for the purpose of teaching or teaching to the extent justified thereby, to the extent necessary for a particular class of school or educational event (reproduction for own school purposes); this also applies to musical notes. However, for reasons other than those referred to in paragraph 1, this is only admissible in order to pursue non-commercial purposes. The authorisation to reproduce one's own school use does not apply to works intended in terms of their quality and designation for school or educational purposes.

(7) Publicly accessible libraries or museums, archives or institutions active in the field of film or audio heritage institutions (cultural heritage institutions) may be able to reproduce or reproduce works that are permanently in their collections, irrespective of their format or medium, for the purpose of their preservation (reproduction for their own use of cultural heritage institutions), if and to the extent that reproduction is necessary for that purpose. This use cannot be debited from the contract. Furthermore, facilities that collect works, produce or have copies made to the public for incorporation into their own archives (reproduction for own use of collections), if and to the extent that reproduction is necessary for this purpose, may be made. However, on those other than those referred to in subsection 1, this is only admissible if they do not serve any direct or indirect economic or commercial purpose. Under this restriction, they may also:

1. make a reproduction from one's own workpieces and impart this instead of the copied workpiece under the same conditions as that exhibited (Section 16 (2)) (§ 16a) and use it pursuant to § 56b);
2. produce and display individual copies of published but unpublished or out-of-commerce works (§ 16 (2)), provide them in accordance with § 16a and use them pursuant to § 56b, as long as the work has not appeared or expired.

(8) Without prejudice to Article 6, the following copies shall, however, be permissible only with the consent of the entitled person:

1. reproduction of entire books, magazines or music scores. this applies even if reproduction of the book, periodical or music button itself is not used as a reproduction of the book, periodical or music button itself, but a reproduction of the book, journal or music node produced in what way; however, in these cases too reproduction by pressing, reproduction of unpublished or outlet works and reproduction under the conditions of paragraph 7 is permissible;
2. the execution of a work of building art following a plan or design or the retroconstruction of such a work.

§ 42a. (1) individual copies may also be produced on order free of charge for their own use of another. However, such reproduction is also permissible in return for payment.

1. where reproduction is carried out by means of reprographic or similar processes;
2. where a work of literature or music is copied by writing;
3. in the case of reproduction pursuant to Section 42 (3).

(2) Facilities made available to the public, which collect workpieces, may produce copies on any medium for their own school use or for their own or private use, for research purposes, free of charge or for a fee that does not exceed the costs.

§ 42 (b). (1) if a work has been made available to the public by radio, or recorded on a storage medium produced for commercial purposes, it is to be expected, by its very nature, that it will be reproduced for personal or private use by placing it on a storage medium pursuant to § 42 (2) to (7), the author shall be entitled to adequate remuneration (storage media) if storage media of all kinds capable of making such copies available commercially in Austria.

(2) Where it is to be expected, by its very nature, that it will be copied for personal use by means of reprographic or similar procedures, the author is entitled to adequate remuneration (reprography remuneration),

1. where a device which, by its very nature, is intended to carry out such reproductions (duplicating apparatus) is marketed commercially on a domestic basis (equipment fee), and
2. where a reproduction device is operated in schools, colleges, vocational training establishments or other training and further training, research institutions, public libraries or in facilities that hold duplicators in return for payment (operating fee).

(2a) the claims under paragraphs 1 and 2 shall cease to exist if, under the circumstances, it may be expected that the reproduction will cause only minor harm to authors as a result of reproduction for personal or private use.

(3) The following persons shall be required to pay equitable remuneration:

1. the storage media and equipment remuneration are those who market the storage media or the duplicating apparatus as the first commercially available from a place located in or abroad; anyone who market the storage media or the reproduction device commercially but does not hold it as the first one is liable like a brush and payor; however, the liability for the storage media is excluded from the liability for the storage media with a not more than 10.000 hours of games or is a small enterprise within the meaning of ure 1994; if the defendant does not have a general jurisdiction in Austria, the courts in whose Sprengel is the first city of Vienna are competent;
2. the operator allowance of the operators of the duplicating device.

(4) When calculating the remuneration, particular consideration must be given to the following circumstances:

1. the comparable rates of charges, previously applicable, and the total amount of remuneration, with disproportionate changes being avoided;
2. at comparable rates and amounts of fees in Member States of the European Union or contracting parties to the EEA;
3. the damage caused to the author by the reproduction, its impact on normal exploitation of works and on the legitimate interests of the author;
4. taking into account the economic development of the sector concerned, including sales of equipment and storage media, on the benefit of the person making copies;
5. the extent to which the storage media and devices are used on average for reproductions for personal or private use and on the overall measurement of such uses, taking into account the impact of the application of technical protection measures on the use of the works in question for reproductions subject to remuneration;
6. the properties of the storage media and devices that are relevant to use, in particular the performance of devices and the storage capacity and multiple description of storage media;
7. to the economic interests of manufacturers, traders and importers of equipment and storage media, which should not be unreasonably affected;
8. to a commercially reasonable relationship between the remuneration and the typical price level of the devices or storage media, with the equipment fee not exceeding 11 % of this price level for equipment; if it is proven, on the basis of empirical evidence, that an almost exclusive use of a device and a storage medium pursuant to paragraphs 1 or 2 is proven, this limit may be exceeded;
9. in the case of the operator remuneration, the nature and extent of use of the duplicating device, which is likely according to the circumstances, in particular the nature of the plant, the location of the device and the normal use.

(5) Claims for remuneration pursuant to paragraphs 1 and 2 may only be asserted by CMOs.

(6) The collective management organisation has to reimburse payments paid by the collective management organisation

1. to those who carry out storage media or a duplicating device before being sold to the final consumer abroad;
2. the final consumer who acquired storage media at a price that includes the remuneration paid but not used or allowed to use it for reproductions for personal or private use.

The facts forming the basis of the claim for reimbursement must be substantiated.

(7) There is no claim for remuneration under subsection 1 if the person liable for payment makes it plausible that the storage media are not used either by him or by third parties for reproductions for personal or private use.

(8) The collective management organisation has, on its website, offered a simple, comprehensible way for the average user to claim restitutio in integrum and to release from the obligation of payment, which enables effective assertion and does not entail excessive difficulties.

(9) In invoices for the sale or other marketing of the storage media and devices referred to in paragraphs 1 and 2, reference is to be made to the remuneration incurred in respect of the storage medium or the device.

Reporting of current events

§ 42c. For reporting on daily events, works that are publicly perceptible in processes reported may be reproduced, distributed, broadcast, made available to the public and used for public lectures, presentations and presentations, to a extent justified by the purpose of the information.

Disabled persons

§ 42 (d). (1) visually or ready-to-read people within the meaning of this provision are people who are

1. are blind,
2. suffer from an incomparable visual injury, a disorders of perception or a reading injury, on the basis of which they are not able to read printed matter in an essentially identical manner to a person without such detriment, or
3. due to physical comfort, it is not possible to keep or have a book or to focus on or move its eyes to the extent that it would normally be necessary for reading it.

(2) Authorised sights and reading facilities are organisations that provide education, training and adaptive reading or access to information on a charitable basis, on the basis of state recognition, authorisation or financial support to people with vision or reading performance, as well as public institutions or charitable organisations that offer these services as one of their core activities, institutional tasks or as part of their public interest tasks.

(3) A reproduction in an accessible format is a reproduction of a work,

1. that enables a person with impaired mobility to access the work, including access as easily and comfortable as a person without eyesight or reading skills, and
2. in which the copied work was previously published in the form of a book, newspaper, periodical, magazine or other document, a notation including sheet music, and related illustrations in any form of media, including audio format such as audio books, and in digital form or otherwise lawfully made available to the public.

(4) Visually or ready-to-read people and persons acting on their behalf may make a reproduction in an accessible format for the sole use by the visually or ready-disabled person if the latter has lawful access to the work.

(5) Authorised sights and reading facilities may be used

1. produce a copy in an accessible format if it has legal access to the work, and
2. a reproduction in an accessible format for people with visual or reading insignia and other authorised entities for visual and reading suspensions that have their domicile or domicile in Austria or in another Member State of the EU or a contracting party of the EEA, distribute in a charitable manner, broadcast radio, make available to the public, reproduce to the public and make use of public lectures, presentations and presentations.

(6) Authorised bodies for sights and readers carrying out cross-border acts pursuant to subsection 5 point 2 shall establish and follow procedures which ensure that:

1. people who enjoy their services are people with visual or reading conditions, and only those people or other authorised people are made available for visual and reading reproductions of works;
2. unauthorised reproduction, distribution, broadcast, making available to the public, communication to the public pursuant to § 40 (g) and use of lectures, presentations and presentations is counteracted by appropriate steps;
3. take due care and keep records of the manipulations and copies in an accessible format; and
4. Information on how they comply with the obligations under paragraphs 1 to 3, where appropriate published and kept up to date on their website or via other online or offline channels.

(7) Authorised entities for sights and reading within the meaning of subsection 6 have people who are visually or stripped of reading and who are entitled to sights and reading handiments domiciled or based

in Austria, in another Member State of the EU or state of the EEA, and rights holders, upon request, have access to information about the

1. the list of works for which they have copies in an accessible format;
2. the formats they have for these works; and
3. the names and contact details of the authorised bodies for sights and reading, with which they exchange copies in an accessible format across markets;

be granted in accessible form.

(8) The author is entitled to financial compensation for the reproduction, distribution, broadcast, making available to the public, pursuant to § 40 g, and use of lectures, presentations and presentations by a authorised body for sights and reading loads based in Austria. When determining the level of compensation, account must be taken of the particular circumstances of the individual case and of the fact that the activities of authorised bodies for vision and reading do not have any commercial purpose as well as the objectives pursued by this provision in the general interest, the interests of people with visual or reading insigina, any damage to authors and the need to ensure the cross-border dissemination of copies in accessible formats. This claim can only be asserted by CMOs.

(9) The free use of the work pursuant to paragraphs 4 and 5 cannot be offset by contract.

(10) for people with other handicapped persons who similarly difficulties access to works, and to the use by or for the benefit of people with visual and reading curtains of works other than those referred to in subsection 3 point 2, paragraphs 2, 3 point 1 and subsection 4 to 9 shall apply by analogy to certain states without the limitations provided for in subsection 5 point 2.

Non-essential embellishment

§ 42 (e) Works may be reproduced, distributed, broadcast by radio, made available to the public and used for public lectures, performances and presentations where they are used only by chance or incidentally and without reference to the actual object of the exploitation act.

Quotations, caricatures, parodiums and pastiches

§ 42 (f). (1) a published work may be copied, distributed, broadcast, transmitted by radio, made available to the public and used for public lectures, performances and presentations, provided that the extent of use is justified by the specific purpose. The foregoing is permissible in particular where:

1. individual works are incorporated once they appear in the main scientific work; a work of the kind referred to in Section 2 (3) or a work of the visual arts may be taken only for the purpose of explaining the content;
2. published works of art in the case of a scientific or instructional presentation of the main object to the public presented to the public merely to explain the contents and the copies required for that purpose;
3. individual posts in a published language work in an independent new work;
4. individual bodies of published musical works are listed in literary work;
5. individual places of an edited work are listed in an independent new work.

(2) Moreover, a published work may be broadcast or made available to the public for the purposes of caricature, parody or pastiche via a large online platform (§ 18c) and for those purposes.

(3) For the purposes of this provision, a work shall be considered equivalent to a work which has been made available to the public, with the consent of the author, in such a way that it is accessible to the public.

Digital usage for teaching and teaching

§ 42 G. (1) schools, universities and other educational establishments may, in order to illustrate teaching or teaching, in particular to support, convey or supplement published works in the context of digital use, send radio, use and make available to the public for a public communication within the meaning of § 18 (3), and reproduce a database work publicly (§ 40 g) if:

1. this takes place under the responsibility of the educational establishment in its premises or in other places; or
2. takes place in a secure electronic environment,

or only the students, students and teaching staff of the educational establishment, and insofar as this is justified for non-commercial purposes.

(2) In the case of works which are intended to be used for school or teaching purposes and are intended to be used for school or educational purposes and whose first performance took place either in Austria or in

German or in a language of a public group recognised in Austria, the use of minor extracts of the work may not exceed, as a rule, small extracts of the work from as a rule up to ten per cent of the work. Individual works of the visual arts and representations of the type or other works referred to in Section 2 (3) or other works of small scale and out-of-commerce works may be fully used. However, minor extracts of such works or works and representations may not be used, provided that licences for uses can be obtained under reasonable conditions. A author or a person entitled to use a work who wishes to exclude use of a work must make available general conditions for the use of his or her works via the internet and ensure that he can react quickly to requests for use authorisations.

(3) The act of exploitation pursuant to subsection 1 point 2 takes place in the Member State of the European Union or a party to the Agreement on the European Economic Area in which the educational establishment is based.

(4) The author is entitled to appropriate remuneration for use pursuant to subsection 1. Such a claim can only be made by CMOs.

(5) The free use of the work pursuant to subsection 1 cannot be debited by contract.

Knowledge of text and data

§ 42 (h). (1) anyone may reproduce a work for a research organisation (para. 3) or for a cultural heritage institution (§ 42 (7)) in order to automate texts and data in digital form for scientific or artistic research and to obtain information about, inter alia, patterns, trends and correlations if they have lawful access to the work. Individual researchers are also entitled to such a reproduction insofar as this is justified for the prosecution of non-commercial purposes.

(2) Reproduction pursuant to subsection 1 may be stored and kept subject to appropriate security conditions, as long as this is justified by the research purpose, including for checking scientific knowledge. In any case, security rehabilitation, the use of which has been recognised as a good practice by representative organisations of rights holders, on the one hand, and research institutions or cultural heritage institutions, on the other hand, is appropriate. Such a reproduction may also be made available to a specific circle of persons for their joint scientific research or individual third parties for the purpose of verifying the quality of scientific research, provided that this is justified in order to pursue non-commercial purposes.

(3) A research organisation within the meaning of this provision is an entity that:

1. the primary aim of which is scientific or artistic research or the teaching of research; and
2. which is not capitalised in their activity, reinvest or profit in their scientific or artistic research, and is active in the public interest within the framework of a recognised mandate; and
3. in the case of a company that does not have a decisive influence on the establishment, prefer access to the results of scientific research.

(4) Paragraphs 1 to 3 shall also be applied if reproduction takes place within the framework of a public-private partnership, in which, in addition to the research organisation or cultural heritage establishment, a company that is geared to profit or another third party is involved.

(5) The free use of the work pursuant to paragraphs 1 to 4 cannot be debited by contract. However, this does not preclude the application of measures designed to guarantee the security and integrity of the networks and databases in which the works or other subject matter are stored, provided that those limitations do not go beyond what is necessary to achieve this objective. Such limitations are considered appropriate if they have been recognised as a good practice by representative associations of rights holders, on the one hand, and research institutions or cultural heritage institutions, on the other.

(6) Anyone may reproduce a work for their own use in order to automated text and data in digital form and obtain information about, inter alia, patterns, trends and correlations if they have lawful access to the work. However, this is not the case where reproduction is expressly prohibited and this prohibition is adequately identified by a reference to use, for example in the case of works made available to the public via the Internet using machine-readable means. Reproduction after this paragraph may be kept as long as it is necessary for the purpose of collecting and obtaining information.

Free use of works in literature.

§ 43. (1) speeches held at a meeting in charge of public relations or in proceedings before courts or other authorities, as well as public political speeches held for information purposes, may be reproduced, disseminated, publicly presented, broadcast and made available to the public for information purposes.

(2) If a mention of this kind has been recorded on a sound recording medium, it may only be distributed with the consent of the author.

(3) Reproduction, distribution and making available to the public of the speakers referred to in paragraph 1 in the collections of such works shall be reserved for the author.

§ 44. (1) individual inscriptions on economic, political or religious day surveys contained in a newspaper or periodical may be reproduced and distributed in other newspapers and magazines. However, this does not apply where reproduction is expressly prohibited. The reservation of rights in the attachment or copy of the newspaper or periodical is sufficient for such a prohibition.

(2) Inscriptions contained in a newspaper or periodical, the reproduction of which is permissible under subsection 1, may also be submitted to the public, broadcast by radio and made available to the public.

(3) Simple reports showing simple communications (mixed news, daily news) do not enjoy copyright protection. Such press reports apply § 79.

§ 45. (1) individual language works or works of the type designated in Section 2 (3) may be reproduced, distributed and made available to the public in order to pursue non commercial purposes.

1. in a collection that contains works of several authors and is intended, in terms of their nature and designation, for use in cherries, school or teaching; a work of the type referred to in Section 2 (3) may be received only for the purpose of explaining the content;

2. in a work which, according to its quality and designation, is intended for school use, it is merely to explain the content.

(2) Linguistic works may also be used to trace non-commercial purposes after their appearance, to a extent justified by the purpose, for radio broadcasts, the use of which has been declared admissible by the teaching authority for school purposes and which are described as school broadcasting.

(3) The author is entitled to appropriate remuneration for the reproduction, distribution and making available to the public pursuant to paragraph 1 and for the radio broadcasts referred to in subsection 2. Such claims can only be asserted by CMOs.

§ 47. (1) small parts of a linguistic work or linguistic works of a small extent may, after their appearance as the text of a work of sound created for the purpose of tying it, reproduce, distribute, present public, be broadcast by radio and made available to the public.

(2) However, the author of the written language work is entitled to a reasonable proportion of the remuneration obtained exclusively by the person authorised for the public performance or radio programme of the sound art work for the granting of public performances or radio broadcasts of this work in connection with the spoken language work.

(3) Paragraph 1 shall not apply to the reproduction and dissemination of language works on sound recording media and to the making available to the public by means of a recording carrier.

(4) Paragraph 1 shall also not apply to language works which, after their genus, are intended for tanning, such as texts relating to orbums, operas, operts and singles, or to language works which appear as text of a musical art work with a reservation which excludes the application of paragraph 1.

§ 48. Small parts of a linguistic work and of a small number of spoken works may also be reproduced and distributed separately from the works of sound art once they appear:

1. use of the receivers who have a direct personal reproduction of the associated works in the place of performance, with an allusion to that provision;

2. programmes in which the broadcasting of the related works is announced;

3. inscriptions on sound carriers or in enclosures therefor; sound carriers may not, in breach of an exclusive right to reproduce, produce or distribute the work established thereon, which must be described as such.

§ 50. (1) the public submission of a published language work is admissible if the listenants pay neither an entry fee nor any other fee and the submission does not serve any commercial purpose or if its yield is intended exclusively for charitable purposes.

(2) However, this provision shall not apply if the participants receive a fee; nor does it apply if the submission is made with the aid of a recording carrier which has been produced or distributed by infringing an exclusive right to reproduce, distribute, distribute, distribute, reproduce, distribute or distribute the established language work.

Free use of works of musical art.

§ 51. (1) in order to pursue non-commercial purposes, individual works of music may be reproduced, distributed and made available to the public after their appearance in the form of emergency notations to an extent justified by the purpose, intended for school use.

1. when they are included in a collection intended for singing, combining works of several authors,
 2. if they are only included for explaining the content.
- (2) The author is entitled to appropriate remuneration for the reproduction, distribution and making available to the public pursuant to paragraph 1. Such claims can only be asserted by CMOs.

§ 53. (1) the public performance of a printed work of musical art is admissible:

1. where the performance is carried out with three horns, musical boxes or other sound recording media of the type referred to in § 15 (3), which cannot be influenced in such a way that the work can therefore be reproduced in the manner of a personal performance;
2. where the work is listed on a civil or civil holiday, or on a military occasion, and the annuities are admitted without remuneration;
3. if the receivers do not pay an entry fee or other remuneration and the performance is not for any purpose of making a purchase or if their income is intended exclusively for charitable purposes;
4. where the performance is organised by a musical captor or a chor, which does not consist of professional musicians, the stock of which serves to care for popular brewing, issued by the competent regional government, and whose members do not want to take part in purchasing and where this performance — at least to a large extent — has become free for brewing music, or music or adaptations that have become vacant as a result of the expiry of the period of protection; however, the performance in communities with more than 2500 inhabitants may not take place in a commercial enterprise, in communities up to 2500 inhabitants, only if other suitable rooms are not available and the turning profit does not flow to the commercial enterprise.

(2) Paragraph 1 (1) to (3) shall not apply if the performance is carried out with the aid of a recording carrier which was produced or distributed by infringing an exclusive right to reproduce, produce or distribute the work it contains; furthermore, the provisions of subsection 1 point 3 shall not apply if the participants receive a fee.

(3) Paragraph 1 shall not apply to musical performances of an opera or any other work of sound art associated with a work of literature or to the performance of a work of sound art in connection with a film work or any other cinematographic product.

Free use of works of art.

§ 54. (1) it is admissible:

1. To reproduce, distribute, distribute and make available to the public works of art that are permanently part of a public collection in the directories published by the owner of the collection for its visitors; any other commercial use is excluded;
2. to reproduce, distribute and make available to the public, where necessary in order to promote the event, published works of art after work that is intended to be auctioned or otherwise offered for sale to the public; however, such advertising brochures may be distributed or made available to the public by the publisher only free of charge or at a price which does not exceed the production costs; any other commercial use is excluded;
3. in order to pursue non-commercial purposes, individual printed works of art in one of their quality and description intended for school or teaching purposes merely to explain the content or in such a school book for the purposes of developing youth's art and making it available to the public;

(Note: Enz3a and 4 annulled by fts I No 99/2015)

5. Works of construction after a construction or other work of the visual arts by work, made to be located permanently in a public place, to reproduce, distribute, present through optical facilities, to broadcast and make available to the public by radio; other than the reconstruction of works of art, reproduction of a work of art or graphic arts for permanent attachment to an organ of the aforesaid type, as well as the reproduction of plastic works by plastic.

(2) The author is entitled to appropriate remuneration for the reproduction, distribution and making available to the public pursuant to subsection 1 point 3. These claims can only be asserted by CMOs.

§ 55. (1) of an image created on order by a person, if no other agreement is made, the tiger and his heirs as well as the depicted and after his or her death may produce the individual light images with him or her in a straight line and have his or her survival partner or partner produced or produced by another person, even for remuneration.

(2) However, paragraph 1 shall apply to images produced in a printing process, in a photographic or in a manner similar to photography, only if the persons referred to in paragraph 1 cannot obtain work at all from the proprietor or only with relatively great difficulties.

(3) Copies whose production is permissible under paragraphs 1 and 2 may be distributed free of charge.

Use of image or sound recording carriers and radio broadcasts in certain business establishments.

§ 56. (1) in business enterprises involving the production, distribution or repair of image or sound carriers or devices for their production or use, lectures, presentations and presentations of works on image or sound carriers and use may be used for public lectures, presentations and presentations of the works fixed thereon, as long as it is necessary to check customers using image or sound carriers or devices with a view to their production or brewing.

(2) The same applies to the use of radio programmes for public reproduction of a work by loudspeakers or other technical facilities in business premises, which relate to the production, distribution or repair of radio equipment.

(3) Paragraph 1 shall not apply where an image or sound carrier is used in breach of an exclusive right to reproduce, produce or distribute the work recorded thereon.

Leasing of image or sound carriers to certain federal institutions

§ 56a. (1) image or sound carriers on which a published work is retained may be distributed through the provision of scientific institutions under public law which have as their purpose the collection, preservation and development of audiovisual media and do not pursue any commercial purposes. For the purpose of release, reproduction of the image or sound carrier may also be made.

(2) Paragraph 1 shall not apply to image or sound carriers which have been produced, produced or distributed in breach of an exclusive right to reproduce, reproduce, produce or distribute the work recorded thereon.

Use of image or sound carriers in libraries

§ 56 (b). (1) facilities accessible to the public (library, image or sound recording collection and the like) may use image or sound carriers for public lectures, performances and presentations of the works fixed thereon for each use of more than two visitors to the establishment, unless this is done for commercial purposes. In such cases, the copyright-holder shall be entitled to appropriate remuneration. Such claims can only be asserted by CMOs.

(2) Paragraph 1 shall not apply when an image or sound medium is used which has been produced or distributed in violation of an exclusive right governing the reproduction or distribution of the work stored on the medium in question.

Communication to the public in education

§ 56c. (1) schools and universities may, for the purposes of teaching or teaching, to the extent justified thereby, reproduce works of the film art and the associated works of music publicly.

(2) The copyright-holder shall be entitled to appropriate compensation for the public presentation under paragraph 1. Such claims can only be asserted by CMOs.

(3) Paragraphs 1 and 2 shall not apply:

1. to film works which are intended for use in schools or for educational purposes by virtue of their subject matter and designations;
2. where an image or sound recording carrier is used which has been produced or distributed by infringing an exclusive right to reproduce, reproduce, distribute, distribute or distribute the work found thereon.

Public representation in accommodation establishments

§ 56 (d). (1) accommodation companies may hold works of film art publicly for the guests they hold, if

1. at least two years have passed since the first performance of the film work either in Austria or in a language of a group of people recognised in Austria,
2. the demonstration is carried out with the help of a video or audio carrier produced for commercial purposes, the distribution of which is permissible pursuant to Section 16 (3); and
3. the viewers are allowed without payment.

(2) The copyright-holder shall be entitled to appropriate compensation for the public presentation under paragraph 1. Such claims can only be asserted by CMOs.

Orphan works

§ 56 (e) (1) publicly accessible facilities which collect workpieces may make and make available to the public works for which no person authorised to permit reproduction and making available to the public is known (orphan works), produce reproductions of one's own work and make them available to the public,

1. if this serves to fulfil its tasks in the public interest, in particular for the preservation, restoration and provision of cultural and educational policy access to its work, free of charge or compensation for the costs of digitising and making available; and
2. if the work has been included in the collection of an authorised establishment, and either:
 - a) has been published in the form of books, specialist journals, newspapers, periodicals or in other written format, also including works and other protected subject-matter embedded or incorporated in such written works, or
 - b) is recorded on a sound carrier or in running images, and
3. in a Member State of the European Union (EU) or a Contracting State of the European Economic Area (EEA), if the work:
 - a) has appeared (§ 9), or
 - b) in the event that it did not appear there, if it was first broadcast in that country with the approval of the legally competent person, or
 - c) in the event that it neither appeared in that country nor was it broadcast there, if it was made accessible to the public by the establishment with the approval of the legally competent person and it can be assumed that the rightholder would not oppose the work being reproduced and made accessible to the public,
4. to the extent and for the period that
 - a) following careful searches in Austria, it was not possible to identify or locate any person authorised to permit reproduction and making available, and the results of this search were documented and forwarded to the collective management authority; or
 - b) in another EU Member State or EEA State, the result of the diligent search within the meaning of Directive 2012/28/EC is recorded in the database established by the Office for Harmonisation in the Internal Market.

(2) Public-service broadcasting companies may reproduce a work stored in sound media or moving images under the provisions set out in paragraph 1 (1), (3) and (4) and make such reproductions available to the public if the work was produced at the request of their company or another public-service broadcasting company before 1 January 2003 and has been stored in the archives of one of those public-service broadcasting companies.

(3) In order to determine whether a work is orphan, the authorised institutions must carefully look for the person authorised to authorise the reproduction and making available of the work before using it. In this process, they must consult appropriate sources in good faith. The minimum number of appropriate sources are those referred to in the Annex to Directive 2012/28/EU. The Federal Minister for Justice may lay down the sources to be consulted in this search for individual categories of works by means of regulations.

(4) The search is to be carried out in Austria if the work appeared in Austria or was first broadcast. In the case of cinematographic works, the search is to be carried out in Austria if its manufacturer has its principal place of business or its usual place of business in Austria. For works that did not appear in Austria and were not broadcast there, the search must be carried out in Austria if the establishment that made the work publicly accessible with the approval of the rightholder is situated in Austria. If there is evidence of relevant information on rightholders in other countries, the available information sources in those other countries must also be consulted.

(5) The search pursuant to (4) must be documented in a report. The report must be retained for the duration of use and for a period of seven years thereafter. The following information must be forwarded to the supervisory authority for collecting societies:

1. the exact titles of works to be regarded as orphan works on the basis of search results;
2. the way in which these works are used by the entity;
3. the fact that a person can subsequently be identified or located that is entitled to permit reproduction and making available;
4. the relevant contact information of the organisation concerned.

The collective management authority shall without delay forward this information to the Office for Harmonisation in the Internal Market for publication in the online database maintained by it.

(6) Once an institution becomes aware of the identity and location of a person authorised to permit reproduction and provision, it must immediately stop any further use of the orphan work without his or her consent. The institution must pay adequate compensation for prior use at the request of the beneficiary. In calculating the level of compensation, it must be assumed that the work has been used in the EU Member State or EEA State where the establishment using the work is situated. The claim for compensation lasts ten years from the use of the work.

Unavailable works

§ 56 (f). (1) a cultural heritage institution (Section 42 (7)) may reproduce, transmit or make available to the public an unavailable work from its stock in order to make it available on a non-commercial website if those rights are not perceived by a collective management organisation pursuant to § 25a of the Rules of Procedure of 2016, ared l. I No 27/2016, and

1. the work is permanently in the body collection,
2. Information relating to the purpose of identifying the work and an indication of the right to oppose referred to in paragraph 3 above via the portal of unavailable works established by the European Union Intellectual Property Office for six months, reproductions being permitted to take place before expiry of the time limit; and
3. an author or a person entitled to use a work does not oppose the use of his work.

(2) Use pursuant to paragraph 1 shall take place only in the Member State of the European Union or a party to the Agreement on the European Economic Area in which the cultural heritage establishment is based.

(3) The author or the person entitled to use a work may at any time oppose the use of his work as unavailable in general or, in certain cases, in a declaration to the cultural heritage establishment. Cultural heritage institutions must cease use within a reasonable period of receipt of this declaration.

(4) A work is deemed not available if it is not available to the public in one of several versions, such as the following editions of literary works or different cut film versions, nor in any of its various forms of publication, such as a digital or printed version. The availability of adaptations and translations, including audiovisual literary works, does not preclude the assessment of a work as not available.

(5) A work may be deemed not to be available if, in good faith and with reasonable effort, it can be assumed that it is not available to the public through the usual distribution channels.

(6) A number of works may be deemed not to be available if, at the reasonable discretion, it can be assumed that all the works of the series are not available. However, such a series may not be used as unavailable if it is mainly composed of:

1. Works first appearing or broadcast in a third country outside the European Union and the Agreement on the European Economic Area;
2. Cinematographic or other audiovisual works whose producers have their principal place of business or their principal place of business in such a third country; or
3. Works of third country nationals for which no Member State or third country can be determined in accordance with Z1 and 2;

exists.

(7) A cultural heritage institution that intends to use a work as unavailable shall communicate information relating to the identification of the work, the right to oppose the author and the right to use the work referred to in paragraph 3 and, as soon as and where relevant, through the use to the European Union Intellectual Property Office for the purposes of inclusion in the Office's online portal in good time before its intended use. If it is to be expected that the authors concerned will be better reached by other reasonable information measures, the institution is also required to take such measures.

(8) The author is entitled to adequate remuneration for reproduction, broadcast and making available to the public pursuant to subsection 1. Such a claim can only be made by CMOs.

Protecting intellectual interests for free use of works.

§ 57. (1) the admissibility of withdrawals, additions and other alterations to the work itself, the title of that work or the title of the copyright must also be assessed in the case of free use of works pursuant to § 21. Under no circumstances may the meaning and nature of the work used be ended.

(2) If a work is reproduced in whole or in part on the basis of Sections 42f, 45, 47, 48 or 51 or Section 54 (1) (1) to (3) to, the source must always be clearly indicated. In the indication of source, the title and the title of the work used must be cited in accordance with Section 21 (1). In the case of admissible use of individual parts of language works in school books pursuant to § 45, the title of the work used must only be indicated if this is not designated by the author's name or top name. Where places or parts of language works are reproduced in accordance with Section 42f (1) (1) or (3), they shall be designated in the indication of source so precisely that they can be easily found in the work used. If, in the case of a reproduction permissible under § 42f (1) (1) or (3), the language work used is taken from a collection, this must also be indicated; in doing so, the indication of the title of the work may be replaced by a reference to the source of the collection in question.

(3) In the cases referred to in § 44 (1) and (2), in addition to the name or top name of the author of the article cited in the source used, the newspaper or periodical from which the inscription is taken shall also clearly indicate it if another newspaper or periodical is indicated as a source. If the newspaper or periodical is not given, its publisher or, if not mentioned, its publisher is entitled to the same claims as an author in the event of an unlawful omission of the name of the author.

(3a) in addition, the source, including the author's name, must be indicated in the following cases, unless this turns out to be impossible:

1. when works are reproduced in whole or in part on the basis of § 42c, unless they are only spontaneously included in the reporting;
2. when works are reproduced in whole or in part on the basis of Section 42f (1) (2), § 43 or § 56a;
3. where places of a work are reproduced on sound recording carriers or in running images pursuant to § 42 (f);
- 3a. when a work is reproduced in whole or in part on the basis of § 42 g;
4. when a work is reproduced pursuant to § 56e or § 56f.

(4) Whether and to what extent free uses of works other than those referred to in paragraphs 2, 3 and 3a can be disregarded must be assessed in accordance with the habits and customs in the bona fide trade.

Publisher involvement in statutory remuneration claims

§ 57a. Where an author has granted a right to a work to a publisher, the publisher shall be reasonably involved in the statutory remuneration claim in relation to that right, unless the parties excluded the involvement of the publisher in the remuneration when granting the right. The author's claim can only be exercised by a collective management organisation that jointly perceives the rights of authors and publishers.

2. Obligation to authorise sound recording media.

§ 58. (1) where the authorised party has authorised another person to reproduce and distribute a work of music on sound recording media, as soon as the work has appeared, any producer of sound recording media may require the beneficiary to also be granted the same use of the work for reasonable remuneration; this applies where the manufacturer has its domicile or principal place of business abroad, notwithstanding the existence of state contracts, only provided that producers having their domicile or principal place of business in that country are treated in an almost identical manner, but in any event in the same way as the producers having their domicile or principal place of business in that State. This balance is to be assumed if it has been established by the Federal Ministry of Justice in relation to the legal position which exists in the country concerned. Furthermore, the competent authorities may enter into a contractual agreement with another state if this appears necessary in order to safeguard the interests of Austrian manufacturers of sound recording media. The authorisation to use the work applies only to the reproduction and dissemination of the work on sound recording media in Austria and to export to states in which the author is not protected against the reproduction and dissemination of the work on sound recording media.

(2) Paragraph 1 shall apply mutatis mutandis to the language works associated with a musical work as text where the authorised person has authorised another to reproduce and distribute the language work in this connection to sound recording discs.

(3) If the defendant does not have any general jurisdiction in Austria, the courts in whose Sprengel is the first city of Vienna shall be responsible for actions for the granting of an authorisation pursuant to paragraphs 1 or 2.

(4) In applying the provisions of paragraphs 1 and 2, the means intended for simultaneous repeated reproduction of works for the eye and hearing (image and sound carriers) will be disregarded.

3. Use of radio programmes.

§ 59. Radio broadcasts of language works and music production may be used for public lectures and performances of the broadcast works with the aid of loudspeakers if the organiser of such a public reproduction has received the authorisation from the competent collective management organisation (Section 3 (1) of the German Copyright Act 2016). The CMO must distribute the remuneration for such licences in the same way as the fee received from a national radio contractor for the authorisation to transmit language works or musical works of sound by radio.

§ 59a. (1) the right to use radio broadcasts of works intended for public reception, including those via satellite, for simultaneous, complete and unchanged broadcasting, can only be invoked by CMOs, irrespective of how the programmed signals for broadcast are transmitted. In respect of the right of distribution via an internet access service within the meaning of Article 2 (2) of Regulation (EU) 2015/2120 of 25 November 2015 concerning measures to access the open internet and to amend Directive 2002/22/EC through universal service and user rights in electronic communications networks and services as well as Regulation (EU) No 531/2012 via Roaming on public mobile telephone networks in the Union, p. 1, this only applies if the relaxation is made exclusively to contractually authorised users and is appropriately secured against unauthorised use by encryption or other means of guaranteeing net-based content. This paragraph shall not apply to the right to sue infringements of copyright law by the courts.

(2) Radio broadcasts may be used for broadcasting within the meaning of paragraph 1 if the broadcasting company has received the authorisation from the competent collective management organisation (Section 3 (1) of the Rules of Procedure of 2016). In relation to this authorisation, the authors who did not conclude a recognition agreement with the collective management organisation and whose rights are not exercised on the basis of a mutual agreement with a foreign collective management organisation also have the same rights and obligations as the reference rightsholders of the CMO.

(3) However, paragraphs 1 and 2 do not apply if the broadcasting right within the meaning of subsection 1 is entitled to the broadcasting company whose transmission is then broadcast. Moreover, they do not apply to rights to a work that is broadcast exclusively on the internet.

§ 59 (b). (1) if a contract for approval of the distribution channel has not been concluded within the meaning of § 59a, any of the parties may request assistance from the Conciliation Committee (Section 82 of the Rules of Procedure of 2016). The Conciliation Committee may submit proposals to the Parties. Such a proposal will be deemed to have been accepted by the parties if neither of the Parties raises an objection within three months.

(2) Where a contract for the granting of a broadcast by cable or microwave systems is not concluded merely because the authorised radio contractor (section 59a (3)) did not engage in negotiations thereon in good faith or prevented or prevented them from acting without due reason, the extensive broadcasting company has a right to grant the authorisation under reasonable conditions. Negotiations on authorisation for other forms of distribution are to be conducted in good faith by the authorised and extended broadcasting company once such negotiations have been initiated.

(3) Where the authorised radio contractor (Section 59a (3)) only refuses the authorisation because no agreement can be reached on the calculation of the fee, the authorisation shall be deemed to have been granted if the broadcast radio contractor paid the non-disputed part of the fee to the authorised broadcasting contractor and has provided security in the amount of the disputed part of the fee by means of the judicial deposit or payment of a bank guarantee. The copyright ssenat may reasonably reduce the amount of the security at the request of the broadcasting contractor. Such a request is subject to the application by analogy of Section 273 of the Austrian Code of Civil Procedure ('RGGI'). No 113/1895, without taking a decision on formal evidence as quickly as possible.

4. School books and examination tasks

§ 59c. (1) the uses of works referred to in § 45 (1) and (2), Section 51 (1) and § 54 (1) (3) are also admissible for the purposes of pursuing commercial purposes if the user has acquired the necessary rights from the competent collective management organisation, section 1 of the collective management company 2006. In relation to this authorisation, the authors who did not conclude a recognition agreement with the collective management organisation and whose rights are not exercised on the basis of a mutual agreement with a foreign collective management organisation also have the same rights and obligations as the reference rightsholders of the CMO.

(2) Paragraph 1 shall apply mutatis mutandis if, after their appearance, works are reproduced, copied, distributed or made available to the public, to an extent justified by the purpose, in examination tasks relating to the examination of the work to be tested in schools, universities or other educational establishments. Section 42 (6) remains unaffected.

VIII. Section.

Duration of the copyright.

Works of literature, music and art.

§ 60. (1) the copyright to works of literature, music and art ends forty years after the death of the author (Section 10 (1)). In the case of a work created jointly by several authors (§ 11), the copyright ends forty years after the death of the last living co-owner (Section 10 (1)).

(2) Where a musical work is associated with a language work (music composition with text) and both works were created specifically for this connection, the copyright for both works ends seven years after the death of the last living author or co-owner of the musical work or of the linguistic work.

§ 61. (1) the copyright in anonymous and pseudonym works ends forty years after its creation. However, if the work is published before the expiry of this time limit, copyright ends forty years after publication.

(2) If the identity of the author is disclosed within the period referred to in subsection 1 or if the pseudonym assumed by the author is disclosed, the protection period is to be assessed in accordance with § 60.

(3) He or she is entitled to disclose the identity of the author himself or by a person to whom the copyright has passed after his death.

Cinematographic works

§ 62. The copyright for films ends forty years after the death of the following people, namely the main registrar and the author of the screenplay, the diaries and the musical art especially created for the film work.

Delivery units

§ 63. In the case of works published in several bars, parts, deliveries, numbers or episodes, where the publication constitutes the fact relevant for the beginning of the period of protection, the protection period shall be calculated from the publication of each component.

Calculation of the periods for protection.

§ 64. When calculating the periods for protection (Sections 60 to 63), the calendar year in which the fact relevant for the beginning of the period occurred is not to be taken into account.

Rights that extend the period of protection.

§ 65. The creator of a work may assert the rights granted to him under Sections 19 and 21, paragraph 3, of his life, even though the period of protection has already expired.

II. Main item.

Related rights.

I. Section.

Protection of representations

Performing artists

§ 66. The performer within the meaning of this Federal Act is the person who submits, lists, offers a work in another way or acts in an artistic manner in such a way, irrespective of whether or not the work offered enjoys copyright protection under the copyright law of this Federal Act.

Protection of intellectual interests

§ 67. (1) the performer has the right to be recognised as such in relation to his performance. In doing so, they may determine whether and by which name it is named.

(2) A performance must not be used in any way that makes it available to the public or reproduced for the purpose of distribution, if it is represented by such variations or in such faults that may adversely affect the artistic reputation of the performer.

(3) The rights referred to in paragraphs 1 and 2 shall in no way end before the death of the performer. After his death, they shall be assigned until the termination of the rights of exploitation to the persons to whom the exploitation rights have been transferred. Where several performers have jointly provided a performance, the death of the last of the performers concerned is decisive.

(4) Paragraphs 1 to 3 shall apply to those persons who are involved only in a chor or orchestra or in a similar way, provided that the name of the choice or orchestra must be indicated instead of the name of the proprietor; Section 70 shall apply *mutatis mutandis*.

Considered for the following intended purpose

Section 37d and, insofar as it refers to it, Section 68 (4), as amended by the Federal Act beans I No 244/2021, enters into force on 7 June 2022 (cf. Section 116 (16)).

Exploitation rights

§ 68. (1) with the restrictions specified by this Federal Act, the performer has the exclusive right,

1. record its performance on a video or sound carrier, reproduce and distribute it and make it available to the public;
2. broadcast by radio, except where the broadcast is made with the aid of an image or sound carrier which was produced and distributed with its consent;
3. its performance by loudspeakers or by another technical device outside the place (theatre, room, garden, etc.) where it takes place, unless the representation is made with the aid of an image or sound carrier produced and distributed with his consent or with the aid of an admissible broadcast.

(2) Image or sound carriers produced or distributed without the consent of the performer may not be used for a radio broadcast or public reproduction of the performance.

(3) Without prejudice to Section 67 (3), the rights of exploitation of the performers lose forty years after performance, if, however, a recording of performance appears or is reproduced publicly before the expiry of that period (Sections 17, 18 and 18a), five years after the appearance or public reproduction, depending on which event first took place. If, before the expiry of the same time limit, a recording of performance on a sound recording carrier or if it is publicly reproduced on a sound recording carrier, the exploitation rights do not expire forty years after the publication or public reproduction, depending on which event first took place. The time limits are to be calculated in accordance with § 64.

(4) § § 11, 12, 13, § 15 (1), § 16 (1) and (3), § 16a, 18a, 18b, 18c, 23, 24, 24a, 24b, 24c, § 25 (1), (2), § 3 (5), § 26 (27), § 28, § 1, 29a, 31, 31b, 32c, 33d, 37e, 37f, 37a and 37b apply *mutatis mutandis*; however, the period of five years referred to in § 31 (2) shall be replaced by one year.

Rights to musical performances for a film work

§ 69. (1) the exploitation rights of performers who have been aware of the performances made for the purpose of producing a film work or other cinematographic product for the purpose of producing a film work or other cinematographic products shall be owned by the owner of the enterprise (film producer or producer). The performers and the film producer or producer are always entitled to half the statutory remuneration, provided that they are not indispensable.

(2) Articles 24c and 31a do not apply to performances for a film work.

Presentation of multiple performers in a number of artists together

§ 70. (1) in the case of offers which — such as the performance of a game of show or a chor or orchor or orchestra work — arise through the interaction of several people under a unified management, the rights of those persons who merely participate in a chor or orchestra or in a similar way may be perceived only by a common representative.

(2) If representation is not already regulated by law or by regulations of association, collective or special contract, the common representative shall be elected by the attendees referred to in paragraph 1 by simple majority without taking into account any votes.

(3) In the absence of a common representative, the District Court of Vienna must appoint a common representative in the proceedings other than litigation. Anyone who has a substantiated interest in exploiting the exploitation of the performance is entitled to file the application.

Free use

§ 71. (1) any natural person may hold and produce individual copies of a performance by radio and made available to the public, as well as the reproduction of a performance with the aid of an image or sound recording carrier, provided this takes place for private use and neither for direct or indirect commercial purposes. Section 42 (2) and (3) and 5 to 7, § 42a and Section 42b (1) and (3) to (9) shall apply mutatis mutandis.

(2) In order to report on daily events, a performance that is publicly perceptible in procedures reported shall be recorded, transmitted by radio, and made available to the public to a degree justified by the informative purpose; such image or sound carriers may be copied and distributed to this extent. In such cases, the source must be indicated unless this turns out to be impossible or the submissions and performance have only been included incidentally in the report.

(3) The use of individual performances for scientific or educational purposes to a extent justified by the non-commercial purpose is permissible. In such cases, the source must be indicated unless this turns out to be impossible. The same applies to the use of performances for the purpose of quotation.

(4) Performances may be recorded by the organiser on a video or sound carrier and represented with the aid of such an image or sound carrier or any other technical device within the building in which the event takes place, in order to make the event perceptible in another room.

(5) The provisions of Sections 66 to 70 and 72 do not apply to the submission of one of the speeches described in § 43 by the speaker himself.

(6) Furthermore, Sections 41, 41a, 42d, 42e, 42 g, 42h, § 56 (1) and (3) and Sections 56a, 56e, 56f and § 57 (3a) (3a) and (4) apply correspondingly to the existing property rights for performances.

Protection of the organiser

§ 72. (1) with the restrictions specified by this Federal Act, the organiser, who ordered the performance, has the exclusive right, in addition to the performer;

1. to record the performance on a video or sound carrier and to make the performance available to the public,
2. broadcast by radio, except where the broadcast is made with the aid of an image or sound carrier which was produced and distributed with its consent; and
3. presentation by loudspeakers or by another technical device outside the place (theatre, room, garden, etc.) where it takes place, unless the representation is made with the aid of an image or sound carrier produced and distributed with his consent or with the aid of an admissible broadcast.

(2) Image or sound carriers produced or distributed without the consent of the organiser may not be used to transmit or reproduce the performance to the public.

(3) Whether there is an obligation on the part of the organiser of performances to participate in it and to allow exploitation must be assessed in accordance with the regulations and agreements governing the legal relationship between the parties involved and the organiser. According to this, it is also a question of whether an employee is entitled to a special remuneration for the organiser. In any case, the organiser, whose consent is intended to record a performance, must first inform the parties involved, even though they are obliged to take part, to inform them in good time.

(4) The rights of exploitation of the organisers will expire forty years after the performance, but if a recording of performance is published before expiry of this time limit, fifty years after publication. The time limits are to be calculated in accordance with § 64.

(5) Furthermore, the provisions governing the exploitation rights of the performer apply mutatis mutandis to the exploitation rights of the organiser under paragraph 1.

II. Paragraph

Protection of photographic images, sound recording carriers, radio broadcasts and orphan works

1. (E) photographs.

§ 73. (1) photographs of light within the meaning of this Act are images produced by a photographic process. A process similar to photography is also to be regarded as a photographic process.

(2) Tracks thus produced (cinematographic products) are subject to the regulations applicable to light images, without prejudice to the copyright regulations for the protection of cinematographic works.

Property right.

§ 74. (1) anyone who takes a photograph (manufacturer) has the exclusive right, by means of the limitations laid down by law, to reproduce, distribute, present it to the public by optical devices, to broadcast and make it available to the public, unless the photograph reproduces a work of the visual arts for which protection has expired. In the case of photographs produced on a commercial basis, the proprietor of the undertaking is considered to be the manufacturer.

(2) The exploitation rights held by the manufacturer in accordance with paragraph 1 are inherited and alienated.

(3) If the manufacturer has designated a photograph with his name (top name, company name), the copies produced by other copies intended for distribution purposes are also to be provided with a corresponding indication of the manufacturer. If a reproduction marked in this way reproduces the photograph with significant modifications, the manufacturer's name must be provided with a corresponding additional element.

(4) In the case of the copies bearing the name of the producer, the subject designation may also differ from that indicated by the manufacturer only to the extent that it corresponds to the practice of honest trade.

(5) After the manufacturer's death, the protection afforded to him by paragraphs 3 and 4 applies to the persons to whom the exploitation rights are transferred. If the rights of exploitation are transferred to another person, the buyer may also be granted the right to designate himself as the manufacturer of the photograph. In this case, the purchaser is deemed to be the manufacturer and, if mentioned as such on the light pieces, also enjoys protection under the provisions of paragraphs 3 and 4.

(6) The right to protection for photographs expires five years after the inclusion, but if the photograph is published before expiry of this time limit, five years after publication. The time limits are to be calculated in accordance with § 64.

(7) Section 5, 7 to 9, 11 to 13, Section 14 (2), Section 15 (1), Sections 16, 16a, 17, 17a, 17b, § 18 (3), § 18a, 18b, § 18c, § 23 (2) and (4), § 24, 24a, § 24 (b), § 25 (2) to (6), § 26 (a), § 27 (1), § 3 (4), (5), (31), § 1 (32), § 1, § 33, § 2, § 36, However, Section 42a (1) (1) does not apply to the reproduction of photographs produced commercially on the basis of a submission made in a photographic method.

(8) Section 38 (1) applies accordingly to the rights to film exploitation of the light images produced during the production of a film work.

Special provisions for people's light pictures.

§ 75. (1) a person's photograph recorded on order may, unless otherwise agreed, be produced by the photographer and his heirs as well as the depicted and after his death may make the individual copies with him or her in a straight line and his or her survival partner or partner make or can be produced by another person, including for remuneration, but in a photographic process only if they are unable to obtain copies made in such methods at all or only with relatively great difficulties.

(2) Copies whose production is permissible under paragraph 1 may be distributed free of charge.

2. Sound carriers.

§ 76. (1) anyone who keeps (manufacturer) acoustic processes for repeated reproduction on a sound carrier has the exclusive right, by means of the limitations laid down by law, to reproduce, distribute and make the sound carrier available to the public. Reproduction is also understood to mean the use of a reproduction with the aid of a recording carrier for transmission to another. In the case of recording discs manufactured on a commercial basis, the proprietor of the company is considered to be the manufacturer.

(2) Sound carriers reproduced or distributed in breach of paragraph 1 may not be used for radio broadcasts (§ 17) or public communication.

(3) If a sound recording carrier produced for commercial purposes or a sound carrier made available to the public is used for radio broadcasting (§ 17) or public communication, the user must pay the manufacturer (para. 1) adequate compensation, subject to Sections 68 (2) and 72 (2) and the previous paragraph 2. Performers are entitled to a share of this remuneration against the producer. In the absence of an agreement between the entitled parties, this proportion is half the allowance remaining by the manufacturer after the removal costs have been deducted. The claims of the manufacturer and the performer can only be asserted by CMOs or by a single CMO. Section 42d para. 8 applies to the claim for the broadcast and public reproduction in favour of people with visual or reading conditions.

(4) For private use and for no direct or indirect commercial purposes, any natural person may retain on a sound recording medium a reproduction carried out with the aid of a recording carrier and make individual copies thereof. Section 42 (2) and (3) and 5 to 7, § 42a, Section 42b (1) and (3) to (9) and § 56a shall apply *mutatis mutandis*.

(5) The right to sound recording media lapses 70 years after the recording carrier appears. If the sound recording carrier did not appear within 50 years after the recording but was lawfully used for public reproduction (Sections 17, 18 and 18a), the property right lapses 70 years after that date. If the sound recording carrier has neither appeared nor been lawfully used for public communication within this period, the property right lapses 50 years after its inclusion. The time limits are to be calculated in accordance with § 64.

(6) Articles 5, 7, 8, 9, 11, 12, 13, 14, 2, 15 (1), 16 (1), § 3 (16) and (18), § 18a, 18a, 23b, § 2c, § 4 (24) and (24), § § 24, 25a, 2b, § 3 (5), (26) and (27), § 1, § 3 (4), § 5 (31), § 1 (32), § 1 (33), § 2 (41), § 41 (e), § 42 (42), § 42 (42), § 42 (56), (56), (56) and (57), shall apply *mutatis mutandis*.

(7) If, after the expiry of five years after the beginning of the period of protection, the producer does not offer the sound carrier sufficient amount for sale (§ 9) or does not make it available to the public (§ 18a), the person designated in § 66 (1) shall have the indispensable right to terminate the contract by means of which it has granted exclusive rights to the recording of its performance. The termination takes effect if the manufacturer does not offer for sale to the sound carrier in sufficient quantities and makes it available to the public within one year from the date of receipt of the disclaimer. In the cases referred to in § 70, the right to dissolution is to be exercised by the common representative. If the contract is terminated after this paragraph, the rights of the manufacturer to the sound recording carrier shall cease to apply.

(8) A person designated in § 66 (1) who granted his exclusive rights to the manufacturer for a flat-rate fee shall be entitled to an additional payment to be paid annually by the manufacturer for each full year starting from 51. Year after the beginning of the period of protection. For the remuneration of all the persons concerned, the manufacturer has to provide a total of 20 % of the revenue resulting from the reproduction, distribution and making available to the public of the recording carrier concerned which the manufacturer achieved during the previous year. Manufacturer, the sound carriers from 51. The year after the expiry of the period of protection, copy, distribute or make available to the public, on request, the beneficiary must provide the beneficiary with all the information that may be necessary to secure payment of the allowance. The claim can only be made by a collective management organisation.

(9) If a person designated in Section 66 (1) has granted his exclusive rights to the manufacturer in return for a benefit that is dependent on use, such a compensation may be permitted from 50. Year after the starting point of the period of protection, neither the reduction of prepaid payments nor other prizes stipulated in the contract are diminished.

3. Radio programmes

§ 76a. (1) anyone who transmits sounds or images by radio or to a similar nature (§ 17, radio proprietor) has, with the restrictions specified by law, the exclusive right to broadcast the broadcast simultaneously via another transmission system and to use it to a public communication within the meaning of Section 18 (3) in places accessible to the public in exchange for payment of an entry fee; the radio contractor also has the exclusive right to record the broadcast on a video or sound carrier (in particular also in the form of a photograph), to reproduce, distribute, distribute and use it to make it available to the public. Reproduction is also understood to mean the use of a reproduction made with the aid of a video or sound carrier for transmission to another.

(2) In contravention of paragraph 1, image or sound carriers that are reproduced or distributed may not be used for radio broadcasts (§ 17) or for a public reproduction.

(3) For private use and for no direct or indirect commercial purposes, any natural person may hold a radio programme on a video or sound carrier and make copies thereof. Section 42 (2) and (3) and 5 to 7 and § 42a shall apply mutatis mutandis.

(4) The right of protection to radio broadcasts lasts forty years after the broadcast. The time limit must be calculated in accordance with § 64.

(5) Articles 5, 7, 8, 9, 11, 12 and 13, Section 14 (2), Section 15 (1), Section 16 (1) and (3), Section 16a, 18a, 18b and § 18c, Section 18 (2), Section 23 (2) and (4), § 24, 24a, § 24 (25), (2) (d), § 3 (5), (26) and (27), apply mutatis mutandis, Section 1 (3), (4), (5), Section 31 (1), (32), (1), (33), (2), (41) and (41).

4. Lost works

§ 76 (b). Anyone who knows a non-published work for which the term of protection has expired is authorised to publish the exploitation rights in the work such as an author. This right lapses forty-five years after publication; the time limit must be calculated in accordance with § 64.

Gestellt. Paragraph

Protected databases

§ 76c. (1) a database (Section 40f (1)) enjoys protection under this section if an investment that is substantial in terms of nature or extent was necessary for the procurement, verification or representation of its contents.

(2) A database that is substantially different in terms of its content or scope is considered to be a new database when the modification requires substantial investment by nature or volume; this applies even if this requirement is only fulfilled jointly by several subsequent amendments.

(3) Protection under this section is independent of whether the database as such or its content is eligible for copyright or other special protection.

(4) The protection under this section does not affect any rights that exist in the content of the database.

Legal right

§ 76 (d). (1) anyone who made the investment within the meaning of § 76c (producer) has the exclusive right, by means of the limitations laid down by law, to reproduce, distribute, distribute, communicate it to the public and make it available to the public by means of the limitations laid down by law. These acts of use are equivalent to the repeated and systematic reproduction, distribution, broadcast and public reproduction of insignificant parts of the database if these actions preclude normal exploitation of the database or unreasonably prejudice the legitimate interests of the database manufacturer.

(2) The distribution right of the manufacturer does not include lending (Section 16a (3)).

(3) Reproduction of a substantial part of a published database is acceptable

1. for private purposes; this does not apply to a database whose individual elements are accessible by means of electronic means;

2. for scientific or educational purposes, to an extent justified by purpose, if this is done without any intended purpose and the source is indicated.

(4) The right to databases lapses 15 years after the end of the database if the database is published before the expiry of this period, 15 years after publication. The time limits are to be calculated in accordance with § 64.

(5) Articles 8, 9, 11 to 13, 14 (2), § 15 (1), § 16, 16a (1) and (3), Section 17, 17a, 17b, 18b, § 18c, § 23 (2) and (4), § § 24, 24a, 24b, 25 (2), 3 (5) and (26), § § 27, 1 (3) and (5) to 31, § 1 (32), Section 1 (33), Section 2 (41), § 42, § 7, § 42, § 42, first sentence, and § 42 (56), apply mutatis mutandis.

Contracts concerning the use of a database

§ 76 (e) A contractual agreement which obliges the legitimate user of a published database to refrain from reproduce, distribution, radio or public reproduction of parts of the database that are insignificant in terms of their nature and extent is ineffective in so far as these acts neither prevent normal exploitation of the database nor unreasonably prejudice the legitimate interests of the database manufacturer.

Ib. Paragraph

Protection for the producers of press publications

§ 76 (f). (1) anyone who, as a service provider, produces a press publication in analogue or digital form on its own initiative, and under his editorial responsibility and supervision, has the exclusive right to reproduce and make available to the public the press publication in whole or in part within the framework of an information society service (Section 1 (1) (2) of the German Trade Mark Protection Act 1999) for online use.

(2) A press publication within the meaning of this provision is a collection of predominantly literary works of journalistic nature, which may also contain other works or other subject matter and which appear as a single edition of a publication that appears manually or regularly updated under a uniform title, such as newspapers, periodicals or magazines of general or particular interest, and serves the purpose of informing the public about news or other subjects. Periodicals which are published for scientific, artistic or academic purposes, such as scientific journals or literature magazines, are not press publications within the meaning of this provision.

(3) The right of the manufacturer of a press publication expired two years after the publication of the press publication. The time limit must be calculated in accordance with § 64.

(4) The right of the manufacturer of a press publication cannot be asserted to the detriment of an author or person entitled to property rights whose work or subject -matter is contained in the press publication. It is without prejudice to the author's or property right to exploit his work or subject-matter independently of the press publication in which they are contained. Where a work or subject -matter is included in a press publication on the basis of consent to use, the right of the manufacturer of a press publication cannot be invoked for the purpose of prohibiting use by other authorised users. Moreover, that right cannot be invoked for the purpose of prohibiting the use of works or other subject -matter whose term of protection has expired.

(5) The rights provided for in paragraph 1 shall not apply to the private or non-commercial use of press publications by individual users. Moreover, protection does not exist either for the setting up of hyperlinks or for the use of individual words or very short extracts, even if they are part of a set hyperlinks. Furthermore, the free uses of works applicable to the right of reproduction and the right to make available, as well as Sections 8, 9 and 11 to 13, Section 14 (2), Section 15 (1), Section 18a, Section 18b, § 18c, § 23 (2) and (4), § 24, 26, 27 (1), 3, 4 and 5, § 31 (1), Section 57 (3a Z 3a and 4, § 74 (2) to (5), apply correspondingly.

(6) The author must be appropriately involved in a remuneration.

III. Section.

Protection of letters and images.

Letter protection.

§ 77. (1) letters, diaries and similar confidential records shall not be publicly read or distributed in any other way as a result of which they are made available to the public if it infringes the legitimate interests of the author or, if he or she has stopped without having authorised or ordered it, by a close member.

(2) Close members within the meaning of subsection 1 are the relatives in an ascending and descending line and the survival child or partner. The first degree of relatives with the author and the survival partner or partner enjoy this protection for their lifetime, and other members only enjoy ten years since the expiry of the author's year of death.

(3) Letters may not be distributed to the type referred to in paragraph 1 even if the legitimate interests of the person to whom the letter is addressed would be infringed, or, if they were stopped, without having authorised or ordered the publication by a close member. Paragraph 2 shall apply mutatis mutandis.

(4) Paragraphs 1 to 3 shall apply regardless of whether the scripts referred to in paragraph 1 enjoy copyright protection under this Act or not. The application of copyright law to such scripts remains unaffected.

(5) Paragraphs 1 to 3 shall not apply to documents which, although not exclusively, have been drawn up for official use.

(6) The provisions of § 41 shall apply mutatis mutandis.

Image protection.

§ 78. (1) images of persons shall not be publicly exhibited or distributed in any other way by means of which they are made available to the public, if this would infringe the legitimate interests of the person depicted or, if defeated, without having authorised or ordered the publication by a close member.

(2) The provisions of Sections 41 and 77 (2) and (4) shall apply mutatis mutandis.

IV. Section.

Message protection. Protection of the title of works of literature and art.

Message protection.

§ 79. (1) press reports of the kind referred to in Section 44 (3), which are contained in newspaper correspondence or other communications used in the provision of news for newspapers or periodicals in return for payment, may only be reproduced in newspapers or magazines if, since their publication, at least 12 hours have passed in a newspaper or periodical authorised by the news examiner to do so.

(2) In applying paragraph 1, the newspapers and magazines are equivalent to all other establishments which provide the periodical dissemination of news to everyone. However, Section 59a shall apply mutatis mutandis.

Protection of title.

§ 80. (1) neither the title or other designation of a literary or artistic work nor the external layout of works for another work may be used in the course of trade in a way that is capable of causing confusion.

(2) Paragraph 1 shall also apply to works of literature and art which do not enjoy copyright protection under this Act.

III. Main item.

Enforcement

I. Section.

Civil law provisions.

Right to an injunction.

§ 81. (1) any person who has suffered an infringement of any exclusive right conferred by this Act, or who fears such an infringement, may seek a prohibitory injunction. Legal proceedings may also be brought against the proprietor of a business if the infringement is committed in the course of the activities of his business by one of his employees or by a person acting under his control, or if there is a danger that such an infringement will be committed; Section 81 (1a) applies mutatis mutandis.

(1a) if the person who has committed such an infringement or threatens to do so uses the services of an intermediary for that purpose, this intermediary may also be liable to an injunction in accordance with paragraph 1. However, if this intermediary fulfils the requirements for exclusion of responsibility under § 13 to 17 ECG [Austrian E-Commerce Act], legal action cannot be taken against him until a written warning has been issued.

(Note: Paragraph 2 was repealed by ur I I No 81/2006)

Right to removal.

§ 82. (1) anyone who is infringed in an exclusive right based on this law may require that the state at issue with the law be removed; Section 81 (1a) applies mutatis mutandis.

(2) In particular, the injured party may require that the copies manufactured or distributed contrary to the provisions of this Act and the copies intended for unlawful distribution be destroyed and that the means (forms, stones, sheets, film strips and the like) intended exclusively or predominantly for unlawful reproduction are made unusable.

(3) Where the infringing objects or means of infringement referred to in paragraph 2 contain parts, the unchanged status of which and the use thereof by the defendant do not infringe the plaintiff's exclusive right, the court shall designate those parts in the judgment giving the destruction or unusualness arrangement. In the case of enforcement, these parts are to be excluded from destruction or unusualness, provided that the debtor pays advance payment for the associated costs. If, in the enforcement proceedings, it is apparent that the unusualness of resources would require disproportionately large costs,

and if these are not paid for in advance by the debtor, the enforcement court will order the destruction of these means of infringement after agreement of the parties.

(4) If the state at issue in the law can be removed in a manner other than that referred to in paragraph 2, which is not connected with, or is related to, less value, the injured party can only demand measures of this kind. Specifically, items of work cannot be destroyed simply because the source is not indicated or does not comply with the law.

(5) Instead of destroying items of activity or unushering means, the injured party may request that the infringing items or means of infringement be left to him by its proprietor for adequate compensation that does not exceed the production costs.

(6) The right to removal is directed against the owner of the objects, who are subject to the measures used to remove the illegal state. The claim may be made as long as such objects are present during the duration of the infringed right.

Right to an injunction and removal in the case of works of art.

§ 83. (1) if an original of a work of the visual arts has been changed without authorisation, the author may only require, unless otherwise provided below, that the modification on the original be identified as not produced by the creator of the work or that a copyright designation found thereon be removed or corrected.

(2) Where the reinstatement of the original situation is possible and does not conflict with its predominantly public interests or predominant interests of the proprietor, the creator of the work may, following his choice, request that he or she be authorised to reinstate the work in place of the measures referred to in paragraph 1.

(3) In the case of works of architecture, the author cannot prevent unauthorised alteration on the basis of § 81. Nor can they require buildings to be removed, converted or left to them in accordance with Section 82 (5). However, depending on the circumstances of the case, one of the measures referred to in paragraph 1 shall be taken upon request, or a copyright denomination corresponding to the truth shall be applied to the retroconstruction.

Right to an injunction and removal in the cases of Sections 79 and 80.

§ 84. (1) in the case of § 79, rights to an injunction and removal may be asserted not only by the news examiner, but also by any undertaking in competition with the perpetrator, and by associations for promoting commercial interests of entrepreneurs if these interests are affected by the act.

(2) In the case of § 80, rights to an injunction and removal may be asserted by such an association and any undertaking involved in bringing about parts of the work whose title, designation or equipment is used for another work, or present it publicly, and whose interests are adversely affected by the act. In the case of copyright-protected works, the author is also always entitled to do so.

(3) In the cases referred to in Sections 79 and 80, infringing objects are subject to the right of removal only if they are intended for unlawful distribution. In this case, there is no right of release of objects or means of redress (§ 82 (5)).

Publication of the judgment.

§ 85. (1) where an action is brought for the prohibition or removal or establishment of the existence or non-existence of an exclusive right based on that law or authorship (§ 19), the court of the winning party must, if it has a legitimate interest in granting the judgment, on application, be entitled to publish the judgment at the expense of the opponent within a specified period. The nature of the publication must be determined in the judgment.

(2) The publication includes the right to a judgment. However, at the request of the winning party, the court may determine, depending on the extent or wording of the judgment, a content of the publication that differs from the judgment or its wording. This request must be made no later than four weeks after the judgment has become final. If the application was only made after the conclusion of the oral proceedings, the Court of First Instance must decide on this matter by order after the judgment has become final.

(3) The Court of First Instance must, at the request of the winning party, fix the costs of the publication and order the opponent to bear its costs.

(4) Publication on the basis of a final judgment or another enforceable title must be carried out by the media contractor without unnecessary deferment.

Entitled to adequate compensation.

§ 86. (1) who is unauthorised

1. uses a work of literature or art in a form of exploitation reserved to the author in accordance with Sections 14 to 18a;
2. uses a performance in a form of exploitation reserved to the performer pursuant to § 68;
3. uses a performance in a form of exploitation reserved to the organiser pursuant to § 72;
4. uses a photograph or sound recording carrier in a method of use reserved to the manufacturer pursuant to § § 74 or 76;
5. use a radio programme in a form of exploitation reserved for the radio undertaking pursuant to § 76a;
6. uses a database of a type of use reserved to the manufacturer pursuant to § 76d; or
7. use a press publication in a form of exploitation reserved to the manufacturer pursuant to § 76 (f),

even if he has no fault, must pay adequate compensation to the injured party whose consent would have been obtained.

(2) However, there is no entitlement to such a fee if a radio broadcast, a communication to the public or the making available to the public is only inadmissible because it was carried out using image or sound carriers or radio broadcasts, which pursuant to Section 50 (2), Section 53 (2), Section 56 (3), Section 56b (2), Section 56c (3) point 2, § 56d (1) point 2, § 68, 72, 74 or 76a (2) and (3) have been known to their radio receiver or should not be used for that purpose.

(3) Anyone who uses a press report in breach of Section 79 must pay the news amer adequate compensation, even if there is no fault.

A claim for damages and the surrender of the profit.

§ 87. (1) anyone who suffered damage to another as a result of a breach of this law must also reimburse the injured party for the loss of profit without regard to the degree of fault.

(2) In such a case, the injured party may also demand adequate compensation for the disadvantages that do not exist in any damage to property which he has suffered as a result of the act.

(3) The injured party whose consent would have been obtained may demand double the remuneration due to him under § 86 as a compensation for the damage of property that he or she has suffered due cause (subsection 1), if no higher damage is proven.

(4) If a work of literature or art is reproduced or distributed without authorisation, the injured party whose consent would have been obtained may also require the surrender of the profit which the party causing the damage has achieved through the culpable infringement. The same applies if a performance is contrary to Section 68 (1) or a broadcast broadcast in breach of Section 76a on a video or sound carrier or if a photograph is contrary to Section 74 or a sound carrier is reproduced or distributed in breach of Section 76. Finally, the same applies if the right to make available (§ 18a) is infringed.

(5) In addition to adequate compensation (Section 86) or the surrender of the profit (paragraph 4), compensation for the damage to property can only be demanded if it exceeds the compensation or the profit to be paid.

Entitlement to billing.

§ 87a. (1) any person who is obliged, under this law, to make reasonable remuneration or reasonable remuneration, a reasonable proportion of such remuneration, to pay compensation, to dispel the profit or to eliminate the profit, shall take account of the person entitled to reimbursement and have its accuracy verified by an expert. If the amount is higher than the invoice, the costs of the examination must be borne by the person responsible for the payment. Anyone who is under an obligation to account must also provide the person entitled to claim information about all the circumstances necessary for prosecution.

(2) Anyone liable as a brush and payer pursuant to Section 42b (3) (1) shall also indicate to the party who acquired the carrier material or the copying device, unless he pays compensation.

(3) Paragraphs 1 and 2 also apply mutatis mutandis to those who are excluded from liability pursuant to Section 42b (3) (1).

Right to information

§ 87 (b). (1) anyone who distributes workpieces in Austria, where the distribution right has lapsed by means of in trade in a Member State of the European Community or in a state party to the European

Economic Area (Section 16 (3)), must give the beneficiary, upon request, correct and complete information about the manufacturer, content, country of origin and quantity of the items of work distributed. At the time of expiry, the right to receive information is granted to whom the right to distribute the workpieces domestically is granted.

(2) Anyone who has been infringed in an exclusive right based on this law may demand information on the origin and distribution channels of the infringing goods and services, unless this would be disproportionate in comparison with the serious nature of the infringement and would not be contrary to legal obligations of confidentiality; the infringer and the persons who are professionally required to provide the information are obliged to provide the information.

1. in possession of infringing goods,
2. using the infringing services, or
3. providing services used in infringing activities shall be obligated to provide information.

(2a) the obligation to provide information referred to in paragraph 2 shall, where appropriate, include:

1. the names and addresses of the producers, distributors, suppliers and the other previous holders of the goods or services as well as the intended wholesalers and retailers,
2. the quantities produced, delivered, received or ordered, as well as the price obtained for the goods or services in question.

(3) Intermediaries within the meaning of Paragraph 81 (1a) shall give the person whose rights have been infringed information as to the identity of the infringer (name and address) or the information necessary to identify the infringer, following an application in writing by the person whose rights have been infringed, such application to include sufficient reasons. The reasons given must include in particular sufficiently precise details as to the facts which give rise to a suspicion that there has been an infringement of rights. The injured party must reimburse the intermediary for the reasonable costs of providing information.

(4) Representatives of the art market who were involved in a subsequent sale within the meaning of Section 16b (2) must, on request, give the beneficiary correctly and in full all the information which may be necessary to secure payment from that sale. The right shall lapse if the information is not demanded within a period of three years after the resale.

(5) Providers of large online platforms within the meaning of § 18c must provide right holders, upon request, with adequate information about contractually allowed uses and how the measures they have taken to avoid unauthorised use function. They must also inform their users in their terms and conditions that these works and other subject matter can be used under exceptions and limitations to copyright and related rights established by Union law.

Interim injunctions

§ 87c. (1) in relation to claims for a prohibitory injunction, removal, adequate compensation, damages and divulgation of the profits under this law, interim injunctions may be issued both to secure the claim itself and to secure evidence.

(2) Interim injunctions may be issued in order to secure any claim for adequate compensation, damages and divaging of profits if it is likely that the satisfaction of these claims will be threatened in the event of infringements of rights committed on a commercial basis.

(3) Interim injunctions may be issued in order to protect rights to cease and desist, even if the requirements set out in Section 381 of the Enforcement Code are not met.

(4) Interim injunctions pursuant to subsection 1 shall be issued at the request of the adversely affected party without hearing the opposing party, if the adversely affected party would probably have caused damage which would not be good or if there is a risk that evidence will be destroyed as a result of a delay.

Liability of the proprietor of an undertaking.

§ 88. (1) if the violation in the operation of an undertaking which gives rise to a claim for adequate compensation (Section 86) is committed by an employee or agent, the obligation to pay the fee is imposed on the proprietor of the undertaking.

(2) If, in the course of operation of an undertaking, an agent or agent has acted in breach of that law, notwithstanding any obligation to make compensation by those persons, the proprietor of the undertaking is liable for compensation for the damage caused thereby (§ 87, paragraphs 1 to 3) if he was aware or could have been aware of the infringement. In such a case, it is also obliged to surrender the profit pursuant to § 87 (4).

Liability of several obliged parties.

§ 89. To the extent that the same claim for adequate compensation (Section 86), compensation (§ 87, paragraphs 1 to 3) or the release of the profit (Section 87 (4)) is justified against several persons, they shall be jointly and severally liable.

‘Claim damages against the provider of a large online platform

§ 89a. (1) a provider of a large online platform has obtained the authorisation of the author and the persons entitled to performance protection for uses within the meaning of § 18c. If it transmits or makes available a work or other subject matter without authorisation in a manner described in § 18c, it shall be liable to an injured party as a result of fault, unless it proves that, having regard to the principle of disproportionate

1. has made every effort to obtain authorisation (second sentence of Section 18c),
2. according to high industry standards of professional care, all efforts have been made to ensure that certain works and other subject matter on which the rights holders have provided relevant and necessary information is not available to them; and
3. after receiving a sufficiently reasoned information from a right holder, acted immediately to prevent access to works or other subject -matter, or to remove the works or other subject -matter from its websites, and has made every effort to prevent such works or other subject matter from being uploaded in accordance with point 2.

(2) When assessing comparability, the nature, the public and the scope of the services, the nature of the works or other subject matter uploaded by the users of the services, the availability of suitable and effective means, the costs incurred by the provider of those services for that purpose, and the user’s demands (§ 89b) must be taken into account.

(3) Service providers whose services have been available to the public in a Member State of the European Union or in a contracting party to the Agreement on the European Economic Area for less than three years and whose annual turnover, calculated in accordance with Commission recommendation (20) of 6 May 2003 concerning the definition of micro businesses and small and medium-sized enterprises, does not exceed EUR 124 million, OJ L, 20.05.2003, p. 36, have to make every effort to obtain authorisation and to act without delay after receiving a sufficiently reasoned indication from rights holders in order to access their works and other objects. If, based on the previous calendar year, the average monthly number of different visitors to the websites of such service providers exceed the threshold of 5 million users, they must also provide evidence that, having regard to the principle of disproportionate, they have made all efforts to prevent the future uploading of the submitted works and other subject matter on which the rightsholder has provided relevant and necessary information.

(4) Section 16 E -commerce law does not apply to a consignment or making available pursuant to § 18c. Furthermore, the application of § 16 E -commerce law to service providers covered by § 18c remains unaffected.

(5) The liability under § 87 for service providers whose main purpose is to participate in or facilitate copyright infringements remains unaffected.

Protecting the demands of users of major online platforms

§ 89 (b). (1) measures pursuant to Section 89a (1) must not have the effect that uploaded works or other subject matter for which there is no infringement of copyright or related rights are not available by users, even if the use of a work or other subject -matter is permitted within the framework of an exception or restriction; they must also not have the effect of identifying individual users unless this is done in accordance with Directive 2002/58/EC of 12 July 2002 on the processing of personal data and the protection of privacy in electronic communications (Data Protection Directive for electronic communications), OJ L 201 of 31.07.2002 p. 37, and Regulation (EU) 2016/679 of 27 April 2016 on the protection of individuals with regard to the processing of personal data, on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ 04.05.2016 L 119, p. 1. Service providers are not obliged to carry out general supervision.

(2) Providers of large online platforms have been able to find adequate information on the functioning of the measures under § 89a (1) on their website and in their terms and conditions.

(3) Measures pursuant to Section 89a (1) (2) may not have the effect of supporting access to a small section of a work or other subject -matter of protection automatically or by removing such an extract from automation. If a right holder seeks measures pursuant to Section 89a (1) (2), which are directed against the use of such an extract, and also provides the service provider with the relevant and necessary information for this purpose, the provider of a large online platform must identify such uses and inform

the legal proprietor thereof so that he can request measures from the provider pursuant to § 89a (1) point 3. However, the provider of a large online platform may, exceptionally, apply autological measures to the availability of small extracts, provided that, for a certain period, the right holder sufficiently demonstrates that, without such temporary measures, there would be a risk that the economic exploitation of the work would be significantly impaired by the use of small excerpts, and otherwise provision is made to ensure that admissible uses are not prevented. A small extract of a work or other subject -matter is used within the meaning of this provision if the user associates the works or subject -matter of third parties with their own content to a lesser extent than half, and the use of these parts does not exceed 15 seconds per se of a film or tracking, 15 seconds of a sound spine, 160 characters per text, or a photograph or graphic with a data volume of 250 kilobites in each case.

(4) If the user argues, or when uploading, that this use is permitted — in particular for the purposes of caricature, parody, pastich, or quotations for purposes such as criticism or review — the provider of a large online platform must make the content concerned accessible and inform the right holder of the use so that it can demand measures from the provider pursuant to § 89a (1) (3), unless this submission can immediately be seen as abusive. The provider of a large online platform must offer the users the appropriate online forms, together with instructions, which are intended to take precautions against an unlawful use of this kind. The online form must be able to include all the information required to assess the admissibility of use and any misuse.

(5) Providers of large online platforms have to create appeal proceedings that allow their users to effectively and quickly take action against unauthorised access to the works or other subject -matter uploaded by them or against unauthorised removal of the works or other subject matter uploaded by them. Effective and comfortable within the meaning of this provision means that

1. enable users to enter their complaints on the online platform by means of easy to find, available and easy to handle functionalities;
2. The complaints have to be dealt with immediately,
3. The respondent's observations are received immediately and users are informed of the respondent's observations immediately,
4. Decisions on a review carried out by human beings must be subject to a review, and users are informed immediately about the outcome of the examination; and
5. As a rule, proceedings can be closed within two weeks of the filing of the appeal.

(6) If a user has submitted grounds in the appeal proceedings that he has correctly uploaded a work or other subject -matter for protection, or that the respondent is not entitled to the claimed rights, the respondent must be invited to submit observations without delay. If the latter still requires the blocking of access to the work or other subject -matter of protection, or the removal of this work or other subject -matter of protection, he must provide reasonable grounds for this. If the respondent does not comment immediately or obviously insufficient, the work or other subject -matter shall be accessible without prejudice to the right of the rightsholder to take legal action against the user.

(7) Users may appeal to the complaints authority regarding the inaccuracy or absence of information (para. 2), the online form (para. 4) or the appeal procedure (paragraph 5). In the event of disputes between rights holders, platforms and their users or user organisations regarding the application of measures pursuant to Section 89a (1), the complaints authority may be contacted by those natural or legal persons, with users being able to be represented before the appeal body by user organisations. For the appeal body to be referred to, the user or, in the cases of the second sentence, first contacted the service provider and either received no reply from the latter or the parts of the dispute were unable to reach a settlement of the dispute. The appellant must reach an amicable solution by preparing a solution proposal or informing the user, the user organisation and the service provider of their opinion on the case raised.

(8) The appeal body must lay down guidelines for the conduct of this procedure, bearing in mind, in particular, the time limits for terminating the proceedings, as adapted to the circumstances of each case. The guidelines are to be guided by the principles of Section 6 (2) and (6) (1), Section 7 (1), Section 8 (1) (1) and (2) and (2) of the Alternative Dispute Resolution Act — Aspiration, I No 105/2015, and must be published in appropriate form.

(9) The appeal body must produce an annual report on the cases pending, which is to be published in the context of the Activity Report pursuant to Section 19 (2) of the KommAustria gesetz — KOG, Opinion I No 32/2001. In addition, the complaints authority must provide the monitoring authority (§ 89c) with a summary of the number, nature and contents of the complaints it has done and made available to the new complaints.

Supervision of suppliers of large online platforms

§ 89c. (1) monitoring authorities within the meaning of this provision are the communication authority Austria established in accordance with § 1 KOG. On the one hand, it is responsible for monitoring the observance of the obligations of the providers of major online platforms pursuant to the second sentence of Section 89b (2), (4), second sentence, and (5), and, on the other hand, the supervision that those providers do not apply measures which have the effect of systematic and to a considerable extent that unavailable works or other subject matter uploaded by users, in respect of which there is no infringement of copyright or related rights. The administrative support of KommAustria in this supervision and the role of the complaints authority lies with RTR -GmbH under the responsibility of the manager for the field of media.

(2) If, on the basis of the frequency and type of complaints or the results of previous supervision proceedings, the supervision considers, on the basis of its own provisional assessment, that a provider

1. Apply measures that systematically and to a considerable extent result in the unavailability of uploaded works or other subject matter for which there is no infringement of copyright or related rights, even when the use of a work or other subject -matter is allowed under an exception or restriction; or
2. his obligations regarding the form of the complaints procedure pursuant to Section 89b (5) have been infringed, or
3. does not comply with its obligation to provide information pursuant to Section 89b (2) or
4. the online form referred to in § 89b (4) is not provided, or is not provided in the form specified in that provision;

it must initiate a supervision procedure and

- a) except in the cases referred to in (b), require the provider to take a decision to establish the legitimate situation and to take appropriate measures to avoid future infringements; the provider must comply with this decision within the time limit set by the monitoring authority, which shall not exceed four weeks, and report it to the supervision authority;
- b) in cases in which a service provider has already been issued more than once a notice pursuant to (a) if the provider does not comply with a decision pursuant to (a), a fine is to be imposed in proceedings under paragraphs 4 and 5.

(3) In assessing the efficiency of the mechanisms for the protection of users, the regulatory authority must take into account that the measures requested to the provider, as well as the arrangements made to increase the efficiency of the mechanisms to protect users, must be appropriate and reasonable, taking into account the legal interests of the suppliers.

(4) In accordance with subsection (2), a fine of up to one million euros shall be imposed on a provider, depending on the size of the infringement, if the latter is

1. Apply measures that systematically and to a considerable extent lead to unavailable works or other subject matter that are not in breach of copyright or related rights by users; or
2. the latter does not initiate appeal proceedings or direct appeal proceedings, but this is not effective and fast (Section 89b (5)).

(5) In assessing the amount of the fine, the following factors must be taken into account in particular:

1. Financial strength of the provider of a large online platform, as can be seen, for example, from its total turnover;
2. Number of registered users of the major online platform;
3. previous infringements;
4. the extent and duration of the responsibility of the provider of a large online platform to comply with the obligations imposed;
5. the contribution to establishing the truth; and
6. the extent of the arrangements made to prevent a breach or instructions to staff on legally stressful behaviour.

(6) Appeals against decisions on fines and against decisions under subsection 2 (a) do not have suspensive effect in derogation from Section 13 (1) of the Austrian Code of Civil Procedure — VwGVG, ared I. I No 33/2013. The measure may, on application, recognise the suspensive effect of the proceedings in question if, after weighing up all the interests affected, the execution of the decision would cause serious and inexpensive damage to the appellant.

(7) Section 12 (3) of the Communication Platform Act te I No 151/2020 is to be applied on the condition that half of the sum of the fines imposed pursuant to subsection 4 is to be transferred as a financial contribution to the performance of the tasks of KommAustria and RTR -GmbH under this Federal Act.

(8) In the context of the activity report to be drawn up over 2023 (Section 19 (2) KOG), the monitoring authority, with the assistance of the complaints authority, must assess the efficiency of the behavioural obligations provided for in § 89b (2), second sentence and subsection 5 and the developments relating thereto within the two preceding calendar years. It is also necessary to assess the availability of works or other subject matter uploaded by users that do not infringe copyright or related rights, and in particular systematic and significant harm to this availability.

Statute of limitations.

§ 90. (1) the limitation of the claims to reasonable remuneration, adequate remuneration, surrender of profits and information is determined in accordance with the provisions on compensation claims.

(2) The claims of the individual entitled parties or groups of persons entitled to claim against the collective management organisation are subject to a limitations period of three years from that date, irrespective of the knowledge of the person entitled to claim compensation from the facts forming the basis of the CMO's obligation to pay.

Obligation to report on the marketing of storage media and duplicators

§ 90a. (1) irrespective of the obligation to provide information pursuant to Section 87a (1), who markets storage media or duplicators from a place located in or abroad as the first on a commercial basis, regardless of the obligation to provide information pursuant to Section a, the person entitled to compensation under § 42b shall be required to communicate in writing the type and number of items introduced to a joint receiving office on a quarterly basis up to five days after the expiry of each third calendar month. CMOs must designate to the collective management authority a common receiving agency for storage media remuneration and reprography remuneration; the monitoring authority shall publish it on its website.

(2) If the obligation to provide a report does not comply with its obligation to report, only incomplete or otherwise incorrect, it may be required to pay double remuneration for the part in question.

Protection of computer programs

§ 90 (b). The proprietor of an exclusive right to a computer program established by this law which uses technical mechanisms to protect that program may bring an action for the prohibition and removal of the situation contrary to the law if means are placed on the market or owned for acquisition purposes which are solely intended to facilitate the unauthorised removal or confiscation of those technical mechanisms. § § 81, 82 (2) to (6), § § 85, 87 (1) and (2), § 87a (1), Section 88 (2), § § 89 and 90 apply mutatis mutandis.

Protection of technical measures

§ 90c. (1) the proprietor of an exclusive right based on this law, who uses effective technical measures to prevent or restrict an infringement of that right, can bring an action for an injunction and removal of the situation contrary to the law,

1. where these measures are circumvented by a person who is known or must be aware of the circumstances that they pursue this aim;
2. when wrapping materials are manufactured, imported, distributed, sold, rented and owned for commercial purposes;
3. advertising for the sale or rental of wrapping materials, or
4. when escape services are provided.

(2) Effective technical measures are to be understood as all technologies, devices and components intended, in normal operation, to prevent or restrict the infringements referred to in paragraph 1 and which ensure the achievement of this protection objective. These conditions are fulfilled only in so far as the use of a work or other subject -matter of protection is controlled

1. by means of access control;
2. a protection mechanism such as encryption, scanning or other transformation of the work or other subject -matter; or
3. by means of a mechanism for controlling reproduction.

(3) Surroundings or escalation services are to be understood as devices, products or components or services.

1. are the subject of sales promotion, advertising or marketing with the aim of circumventing effective technical measures;
2. having only a limited economic purpose or benefit apart from the avoidance of effective technical measures; or
3. are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of any effective technological measures.

(4) § § 81, 82 (2) to (6), § § 85, 87 (1) and (2), § 87a (1), Section 88 (2), § § 89 and 90 apply mutatis mutandis.

(5) Paragraphs 1 to 4 shall not apply in relation to rights to computer programs.

(6) In so far as a proprietor of an exclusive right established on the basis of this Federal Law makes use of technical measures within the meaning of paragraph 1, he is obliged, insofar as they have lawful access to the work or subject -matter of protection, to make the necessary means available immediately to the beneficiary by one of the provisions referred to below, in so far as they have lawful access to the work or subject -matter of protection, so that they can make use of this advantage as necessary:

1. § 42 (7) (reproduction for own use of cultural heritage institutions and collections),
2. § 42d (people with disabilities),
3. § 42G (digital uses of teaching and teaching); and
4. § 42h (Text- and Data -Mining).

Agreements to exclude this obligation are ineffective.

(7) Anyone who violates the requirement under subsection 6 may be required to make available the resources necessary to implement the authorisation by the beneficiary.

(8) Technical measures applied to comply with paragraph 6, including measures applied to implement voluntary agreements, enjoy protection under paragraphs 1 to 4.

Protection of tags

§ 90 (d). (1) the proprietor of an exclusive right established by that law which applies markings within the meaning of this provision may bring an action for an injunction and removal of the state of conflict with the law,

1. when such labels are removed or modified;
2. where copies of works or other subject -matter, by or on which signs have been unauthorised or modified, are distributed, distributed or distributed, or used for a broadcast, a communication to the public or for making available to the public.

(2) The claim under subsection 1 exists only against persons who carry out the activities referred to without authorisation and consciously, with knowledge of them or having to be aware of the circumstances that they thereby cause, facilitate, facilitate or hide the infringement of an exclusive right conferred by that law.

(3) Markers are to be understood as meaning:

1. which are recorded in electronic form, even if they are encrypted by numbers or other forms;
2. which are connected with a reproduction of the work or other subject -matter of protection, or are sent, transmitted, reproduced or made available to the public in connection with the work or other subject -matter, and
3. the content is as follows:
 - a) the name of the work or other subject -matter, author or any other right holder, provided that all these particulars originate from the right holder, or
 - b) the terms and conditions governing the use of the work or other subject -matter of protection.

(4) § § 81, 82 (2) to (6), § § 85, 87 (1) and (2), § 87a (1), Section 88 (2), § § 89 and 90 apply mutatis mutandis.

II. Section. Criminal law provisions.

Intervention.

§ 91. (1) anyone who is subject to an infringement of the type referred to in § 86 (1), Section 90b, § 90c (1) or § 90d (1) shall be punished with detention of up to six months or a fine of up to 360 times the per diem rate. However, the infringement cannot be punishable if it merely involves unauthorised reproduction or unauthorised fixation of an argument or a performance for personal use or free of charge ordered by another.

(Note: Paragraph 1 (a), repealed by Art I No 32/2003)

(2) Likewise, a person who, as the proprietor or manager of an undertaking, does not prevent an infringement of this kind in the course of the undertaking by an employee or agent of that kind (paragraphs 1 and 1a) must be punished.

(2a) anyone who committed an act punishable under subsection 1, 1a or 2 on a commercial basis shall be punished with detention of up to two years.

(3) The perpetrator is only to be prosecuted on request of the injured party in his or her right.

(4) Section 85 (1), (3) and (4) on the publication of the judgment shall apply mutatis mutandis.

(5) Criminal proceedings are incumbent on the single court of the Court of Justice of the first instance.

Destruction and unusualness of objects and means of intervention.

§ 92. (1) in the judgment, in which a defendant for the offence pursuant to § 91 is ordered, at the request of the private party, the destruction of the infringing items intended for unlawful distribution and the unusualness of the means of infringement determined exclusively or predominantly for unlawful reproduction and the means of infringement described in § 90b and in Section 90c (3) must be ordered. Such infringing objects and means of infringement are subject to these measures, irrespective of to whom they belong. Buildings are not subject to these measures. The provisions of Section 82 (3) shall apply mutatis mutandis.

(2) If no particular person can be prosecuted or convicted, the criminal court shall, at the request of the injured party, order the measures referred to in paragraph 1 in the release or in separate proceedings if the other conditions of those measures are met. In independent proceedings, the court which would be responsible for conducting the criminal proceedings after the necessary surveys had been practice, after hearing the oral proceedings by way of a judgment, recognises this. The rules applicable to the hearing, decision, publication and appeal of the decision shall apply mutatis mutandis to the decision on the claim of a criminal offence. The reimbursement of costs is governed by the general rules on reimbursement of costs of the criminal proceedings; if the application is granted, the obligation to reimburse costs shall be borne by the party to the proceedings as the opposing party of the applicant.

(3) In the cases referred to in paragraphs 1 and 2, where it is possible to also invite the owners of objects subject to destruction or unusualness to attend the hearing. They are entitled, as far as the legal requirements of these measures are concerned, to put forward factual circumstances, to make requests and to take the legal remedies permissible under the Code of Criminal Procedure. For reasons of invalidity, they may contest the judgment even if the court has exceeded the powers conferred on it under paragraphs 1 and 2. They can manage their case themselves or through an agent and make use of a legal representative from the number of persons entered on the defence list. The period for filing an appeal begins with the delivery of the judgment, even if they were not present. They cannot object to a judgment that has been issued in their absence.

Seizure.

§ 93. (1) in order to safeguard the measures requested on the basis of Section 92, the objects of infringement and means of infringement that are subject to them may be taken into question by the criminal court at the request of the private prosecution party.

(2) The criminal court must give a decision immediately on such an application. It may make the authorisation of seizure dependent upon the existence of a seizure. Seizure must be limited to what is absolutely necessary. It must be cancelled if reasonable assurance is provided that the objects seized are not used in an unauthorised manner and are not removed from access to the Court.

(3) If the seizure has not been annulled earlier, it will remain pending the final settlement of the proceedings regarding the application for destruction of the objects of infringement or unusable of the

means of infringement and, if it is recognised in the judgment, until the enforcement of the ordered measures.

(4) Decisions concerning the order, restriction or lifting of seizure may be appealed within 14 days; it only has suspensive effect if it is directed against the lifting or restriction of the seizure.

(5) If the court does not recognise the destruction or dishonest nature of the seized objects, then the applicant must replace all the property damage caused by the seizure. If, as a result of an agreement reached by the parties, no decision is reached on the request for destruction or unusualness, the party concerned may only claim compensation if it has reserved the right to reimbursement in the agreement.

(6) The right to the replacement provided for in paragraph 5 shall be made through proper legal action.

IV. Main item.

Scope of the Law.

1. Works of literature and art.

Works of the nationals.

§ 94. A work enjoys copyright protection, irrespective of whether and where it appeared, if the author (Section 10 (1)) or a co-owner of Austrian nationals is the author.

Factories appeared at domestic level and related to domestic properties.

§ 95. The copyright protection of this Act also applies to all works not already protected under § 94 and which have already been published on the domestic basis, as well as the works of the visual arts, which are components or belong to an domestic property.

Works of foreign countries that do not appear on the domestic basis and are not associated with domestic properties.

§ 96. (1) for works of foreign authors (Section 10 (1)) which are not protected under § 94 or under § 95, copyright protection exists without prejudice to state contracts, provided that the works of Austrian authors are also protected in a virtually identical manner in the state to which the foreign author belongs, but in any event to the same extent as the works of the nationals of that state. This balance is to be assumed if it has been established by the Federal Ministry of Justice in relation to the legal position which exists in the country concerned. Furthermore, the competent authorities may contractually agree with another state if this appears necessary in order to safeguard the interests of Austrian authors.

(2) For the calculation of the duration of protection enjoyed by foreign authors for their works in Austria under the World Copyright Convention of 6 September 1952, ared No 108/1957, or under the World Copyright Convention, revised on 24 July 1971, Art. IV (4) (a), Article IV (1) and Article IV (4) (a) must be applied.

2. Presentation of performances

§ 97. (1) representations which take place in Austria are protected under the provisions of Sections 66 to 72, irrespective of the country to which the performer or the organiser belongs.

(2) In the case of performances made abroad, Sections 66 to 72 apply to Austrian nationals. Foreigners are protected, without prejudice to state contracts, provided that the performances of Austrian nationals are also protected in a virtually identical manner in the State to which the foreign national belongs, but at least to the same extent as performances by members of that State. This balance is to be assumed if it has been established by the Federal Ministry of Justice in relation to the legal position which exists in the country concerned. Furthermore, the competent authorities may contractual themselves with another state if it appears necessary to safeguard the interests of Austrian performers.

3. (E) photographs.

§ 98. (1) the provisions of Sections 94 to 96 shall apply mutatis mutandis in respect of the applicability of the provisions for the protection of light images (Sections 73 to 74).

(2) If the manufacturer is a legal person, the requirement of Austrian nationals is met if the legal person has its registered office in Austria.

4. Sound recording carriers and transmissions

Sound carriers

§ 99. (1) under § 76, sound carriers are protected irrespective of whether and how they appeared if the manufacturer of Austrian nationals is the producer. § 98 (2) shall apply accordingly.

(2) Other sound carriers are protected under § 76 (1), (2) and (4) to (6) if they appeared in Austria.

(3) Under Section 76 (1), (2) and (4) to (6), sound carriers of foreign manufacturers which did not appear in Austria are protected without prejudice to state contracts, provided that sound carriers of Austrian manufacturers are also protected in a virtually identical manner in the state to which the foreign manufacturer belongs, but in any event to the same extent as the sound recording carriers of the members of that state. This balance is to be assumed if it has been established by the Federal Ministry of Justice in relation to the legal position which exists in the country concerned. Furthermore, the competent authorities may enter into a contractual agreement with another state if this appears necessary in order to safeguard the interests of Austrian manufacturers of sound recording media.

(4) Sound carriers of foreign manufacturers not published in Austria are also protected pursuant to Section 76 (1), (2) and (4) to (6) if the manufacturer belongs to a contracting party to the Convention of 29 October 1971, bread No 294/1982, for the protection of manufacturers of sound recording media against unauthorised reproduction of their sound carriers.

(5) Foreigners are in any case only entitled to protection under Section 76 (3) under state contracts.

Radio programmes

§ 99a. Radio broadcasts which are not broadcast on the domestic market are protected only under state contracts.

Lost works

§ 99 (b). The provisions of Sections 94 to 96 shall apply mutatis mutandis to the protection of subsequent works (§ 76b).

4a. Databases

§ 99c. (1) databases are protected under § 76d if the producer of Austrian nationals is the producer of Austrian nationals or has his usual place of residence in Austria. § 98 (2) shall apply accordingly.

(2) Other databases are protected under § 76d if the producer is a legal person established in accordance with the law of a Member State of the European Community or a state party to the Agreement on the European Economic Area; and

1. has its central or principal place of business in any of these countries, or
2. has its registered office in one of these states and whose activity has a real connection with the economy of one of these countries.

(3) Moreover, databases are protected under state contracts and agreements concluded by the Council of the European Community pursuant to Article 11 (3) of Directive 96/9/EC of the European Parliament and of the Council on the legal protection of databases (OJ L 77 of 27 March 1996, p. 20).

4b. Press releases

§ 99 (d). (1) press publications are protected under § 76 (f) if the manufacturer of Austrian nationals is a producer of Austrian nationals or has his usual stay within Austria. § 98 (2) shall apply accordingly.

(2) Other press publications are protected under § 76f if the manufacturer is a legal person established in accordance with the law of a Member State of the European Community or a contracting party to the Agreement on the European Economic Area; and

1. has its central or principal place of business in any of these countries, or
2. has its registered office in one of these states and whose activity has a real connection with the economy of one of these countries.

5. News protection and title protection.

§ 100. (1) outside countries which do not have a principal place of business in Austria are only entitled to protection pursuant to Sections 79 and 80 in accordance with state agreements or mutual funds; the Federal Minister for Justice is authorised to make clear in the Federal Law Bulletin that and at best to what extent mutual competition is guaranteed under the national legislation of the foreign state.

(2) The author of a protected work and the persons to whom a right to use a work belongs thereto shall be granted the protection referred to in § 80 even if the conditions referred to in paragraph 1 are not met.

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Transitional and final provisions.

§ 101. (1) unless otherwise provided, the copyright provisions of this Act also apply to works of literature and art created before its entry into force, which have not already become vacant as a result of the expiry of the period of protection.

(2) Works which, at the time of the entry into force of this law, enjoy copyright protection because, under the earlier regulations, they are to be regarded as originating from the country, are equally protected to the works that have been published in Austria, even if, pursuant to § 9, they are not part of the work that has been published in Austria.

(3) The protection afforded by the regulation in relation to foreign states also extends to protection under this law.

§ 102. (1) who formed the copyright to the works formed by different employees, which nevertheless represent a uniform whole, which were published by public authorities, Korporations, educational institutions and public institutions before the entry into force of this law by associations or companies (§ 40 of the Copyright Act, St. G. Bl. No 417/1920), which is to be assessed in accordance with the new law. However, in case of doubt, the rights of use of such collectors are to be ascribed to the aforementioned publishers.

(2) Who whom the copyright to a portrait ordered for remuneration (§ 13 of the Copyright Act, St. G. Bl. No 417/1920), which was created before the entry into force of the new law, is to be assessed in accordance with that law. However, in case of doubt, the rights to use such a portrait belong to the customer.

§ 103. If, prior to the entry into force of this Act, copyright was limited or unlimited to another person, this injunction does not, in case of doubt, extend to powers newly granted to the author by this law.

§ 104. Pursuant to Section 38, the exploitation rights to a film work produced on a commercial scale are to be assigned to the film producer even if it was created prior to the entry into force of this Act, provided that this is not precluded by an agreement between the parties which restricts these rights to the film manufacturer. If the author wishes to claim a right of exploitation of such a work pursuant to § 38 to the film producer, he or she must exercise his right in the event of other loss within a period of one year after the entry into force of this Act.

§ 105. The rights of the authors of translations, which appeared admissible before the entry into force of this Act, without the consent of the author of the translated work being required, are not affected by this law.

§ 106. (1) in so far as the free distribution of copies of a work is permissible under the previous provisions, copies produced before the entry into force of this Act may still be freely distributed, even if they are not allowed to be distributed without the consent of the entitled party under the provisions of this Act on free use.

(2) The legality of the quality of duplications produced before the entry into force of this Act is to be assessed in accordance with the previous regulations.

§ 107. The text associated with a musical art which is admissible before the entry into force of this law (Section 25, Z 5, of the Copyright Act, St. G. Bl. No 417/1920) in connection with the work of the musical art, may continue to be used in this connection in a manner permissible under § 47, paragraphs 1 and 3. In doing so, however, the provision of Section 47 (2) is to be applied.

§ 108. If a work of literature or musical art was transferred to a device for the mechanical reproduction of the hearing before the entry into force of this Act, the entry into force of this Act will cease to apply pursuant to Section 23 (3) and Section 28 (2), of the Copyright Act, St. G. Bl. No 417/1920, copyright rights in respect of the transfer of rights of persons subsequently considered as workers. The right granted by the author to use a work to make a mechanical reproduction for the hearing remains unaffected. However, in the event of doubt, this right extends neither to means intended for simultaneous repeated facial and hearing, nor to the public putting forward or listing the work by means of sound recording media or transmitting it by radio.

§ 109. (1) the provisions of Sections 66 to 72 apply in favour of the persons designated in § 66 (1) even if the submission or performance of a work of literature or musical art took place before the entry into force of this Act.

(2) If the submission or performance has been recorded on a video or recording medium before the entry into force of this Act with the consent of the person entitled to use the trade mark pursuant to § 66 (1), the manufacturer of the image or sound recording carrier was in doubt also granted the exclusive right of use to reproduce and distribute it in the manner reserved to the beneficiary pursuant to § 66. In such a case, the consent also includes, in case of doubt, the granting of authorisation to designate the image or sound carriers using the name of the person making the gift or installation.

§ 110. (1) the provisions of Sections 66 to 72 apply in favour of the persons designated in § 66 (1) even if the submission or performance of a work of literature or musical art took place before the entry into force of this Act.

(2) If the submission or performance has been recorded on a video or recording medium before the entry into force of this Act with the consent of the person entitled to use the trade mark pursuant to § 66 (1), the manufacturer of the image or sound recording carrier was in doubt also granted the exclusive right of use to reproduce and distribute it in the manner reserved to the beneficiary pursuant to § 66. In such a case, the consent also includes, in case of doubt, the granting of authorisation to designate the image or sound carriers using the name of the person making the gift or installation.

§ 111. The provisions of Sections 101 to 103 and 106 apply accordingly to photographs recorded before the entry into force of this Federal Act (Sections 73 to 75).

§ 112. Sound carriers are protected under § 76, even if the commencement of the acoustic processes took place prior to the entry into force of this Act.

§ 113. (1) the Copyright Act, R. G. Bl. No 197/1895, is now in force (instruction manual St. G. Bl. No 417/1920 and Regulation B. G. Bl. No 555/1933). Similarly, Regulation B. G. Bl. No 347/1933 has been terminated.

(Note: § 2 amending the ABGB, JGS. No 946/1811.)

(Note: Paragraph 3 of the German Federal Act against Unfair Competition, gun No 531/1923).

(4) Section 57 (4) of the Patent Act, B. G. Bl. No 366/1925 remains unaffected.

§ 114. (1) this Federal Act will enter into force on 1 July 1936.

(2) The Federal Ministry for Justice is responsible for its implementation, but, with regard to Section 90a (1) to (4), the Federal Ministry of Finance is in agreement.

(3) On the basis of this Federal Act, regulations may be issued from the day following the day following which it was published; however, they will enter into force at the very latest with this law.

Relationship to European Union law

§ 115. (1) by § 60 (2), Section 67 (1) and Section 76 (5) and (7) to 9 and § 116 in the version of the Federal Law Gazette I No 150/2013, Directive 2011/77/EU amending Directive 2006/116/EC on the term of protection of copyright and certain related rights (codified version) is implemented.

(2) Section 56e and Section 57 (3a) point 4 in the version of the Federal Law Gazette I No 11/2015 and the references to these provisions are implemented in Section 72 (2), Section 74 (7), Section 76 (6) and Section 76a (5) of Directive 2012/28/EU on certain admissible forms of use of orphan works, p. 5.

(3) Articles 38, 42, 42a, 42b, 42d to 42 g, 57, 59a and 59c in the version of the Federal Act beans I No 99/2015 are legal provisions which fall within the scope of application of

1. Directive 93/83/EEC on the coordination of certain copyright and performances legislation on satellite broadcasting and cable retransmission, OJ L 248, 06.10.1993, p. 15, and

2. Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society, OJ L 167 of 22.06.2001 p. 10, as amended, OJ L 6, 10.01.2002, p. 71.

fall.

(4) Articles 60, 61 and 68 (3) in the version of the Federal Act beans I No 99/2015 are legal provisions which fall within the scope of Directive 2006/116/EC on the term of protection of copyright and certain related rights (codified version), p. 12, most recently amended by Directive 2011/77/EU, p. 1.

(5) Articles 66 to 72, 74, 76 and 76a in the version of the Federal Act beans I No 99/2015 are legal provisions which fall within the scope of application of

1. Directive 2001/29/EC,

2. Directive 2006/115/EC on rental right and lending right and on certain rights related to copyright in the field of intellectual property (codified version), ckd p. 28,
3. Directive 2006/116/EC, and
4. Directive 2012/28/EU

fall.

(6) Articles 86 and 87, as amended by the Federal Act beans I No 99/2015, are legal provisions that fall within the scope of

1. Directive 2001/29/EC and
2. Directive 2004/48/EC on the enforcement of intellectual property rights OJ L 157 of 30.04.2004 p. 45, as last amended by Regulation (EC) No 219/2009, OJ L 87, 31.03.2009, p. 109,

fall.

(7) Section 42d, Section 71 (6), Section 74 (7), Section 76 (3) and (6), Section 76a (5) and Section 90c (6) to (8) in the version of the Copyright Act 2018, fts I No 63/2018, implements Directive (EU) 2017/1564 on certain permitted forms of use of certain works protected by copyright or related rights in the information society, OJ L 242, 20.9.2017, p. 6.

(8) Section 43 (1) and Section 90c (6) to (8) in the version of the Copyright Act 2018, seeds I No 63/2018 are legal provisions which, moreover, fall within the scope of Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society, OJ L 167, 22.6.2001, p. 10.

(9) Section 17 (4), Section 18b, 59a, 59b, Section 68 (4), Section 74 (7), Section 76 (6), Section 76a (5) and Section 76d (5) in the version of the Federal Act ut I No 244/2021 implementing Directive (EU) 2019/789 of 17 April 2019 laying down rules for the exercise of copyright and related rights in relation to certain online transmissions and retransmission of television and radio programmes and amending Directive 93/83/EEC L 130 of 17.05.2019, p. 82.

(10) Section 18c, 24a and 24b, Section 37b to 37 g, Section 42 (7), Section 42f (2), Section 42 g, 42h, 56f, Section 57 (3a), Section 57a, Section 68 (4), Section 71 (6), Section 74 (1) and (7), Section 76 (6), Section 76a (5), Section 76d, Section 5f, Section 76 (86), Section 1b (87), § 5 (c) of the Federal Republic of 17 April 2019, § 89a.

Novelals enter into force

§ 116. (1) Sections 60, 67 (1) and 1a, Section 76 (5) and (7) to (9) in the version of the Federal Act beans I No 150/2013 enter into force on 1 November 2013.

(2) Section 60 (2), as amended by the Federal Act beans I No 150/2013, applies to connections if at least one of the associated works is still protected in at least one Member State of the European Economic Area on 1 November 2013.

(3) If the author (Section 10 (2) UrhG) has, before 1 November 2013, justified a right to use a work, granted a permit to use a work or has a statutory claim for remuneration, this injunction does not, in case of doubt, extend to the period of extension of the period of protection provided by this Federal Act; however, a person who has acquired a right to use a work or a permit to use a work for remuneration, even during such extension, remains entitled, in return for payment of reasonable remuneration, to use the work.

(4) In so far as the protection of works for which the period of protection had already expired in accordance with the provisions currently in force pursuant to subsection 2 has expired, reproductions of such works which began before 1 November 2011 may also be completed after 31 October 2013 and these reproductions and copies already existing prior to 1 November 2011 may also be distributed after 31 October 2013. Furthermore, the person who acquired a permit to use a work relating to the use of a work associated with a work in the public domain before 1 November 2013 may require, after 1 November 2013, the use of the previously publicly domain work for which protection is restored, under reasonable conditions.

(5) Section 67 (1) and Section 76 (5) and (7) to (9), as amended by the Federal Act beans I No 150/2013, apply to performances and sound carriers for which the period of protection under the previously applicable provisions had not yet expired on 1 November 2013.

(6) If a person designated in Section 66 (1) has granted his exclusive rights to the manufacturer before 1 November 2013, this injunction extends, in case of doubt, to the period of extension of the period of protection brought about by the Federal Law Gazette I No 150/2013. Furthermore, paragraph 3 is to be applied by analogy.

(7) The extension of the term of protection by the Federal Law Gazette I No 150/2013 does not justify an increase in the CMO's rates for the remuneration referred to in § 42b in conjunction with Section 76 (4) or Section 76 (3) or a change in the distribution of income from these allowances between various groups of rights.

(8) Section 56e, Section 57 (3a) Z 4, Section 72 (2), Section 74 (7), Section 76 (6) and 76a (5) in the version of the Federal Act beans I No 11/2015, enter into force on 29 October 2014.

(9) Section 37a, Section 38 (1) and the heading relating to Section 38, Section 42 (5) to (8), Section 42a, Section 42b (1), (3) (1), (4), (6) to (9), Section 42d to 42 g, Section 57 (2) and (3a), Section 59, 59a (2), Section 59c, Section 59c, § 60, § 1, § 61 to 66 and the heading of Section I. Main items, Section 74 (7) and (8), Section 76 (3), (4) and (6), Section 76a (5), Section 86 (1) and (2), Section 87 (4), Section 90a and Section 97 in the version of the Federal Act beans I No 99/2015 enter into force on 1 October 2015; § § 46, 52, 54 (1) (3) (a) and (4), § § 61a to 61c will cease to apply as from 30 September 2015.

(10) the copyright register maintained by the Federal Ministry of Justice must be completed on the date of entry into force of this Federal Act and must not be continued. Section 60 (1) and Section 61, as amended by the Federal Act beans I No 99/2015, apply to all works whose term of protection has not yet expired on the date of entry into force of this Federal Act. The term of protection of works in respect of which, prior to the entry into force of this Federal Act, the registration of the author in the Official Journal of the Wiener Zeitung pursuant to Section 61c was published must still be assessed in accordance with Section 60.

(11) for the years 2016 to 2019, the total revenue from the storage media allowance and the reprography fee shall not exceed the benchmark of EUR 29 million before the reduction of the reimbursement at the total annual revenue.

(12) Section 42d, Section 43 (1), Section 71 (6), Section 74 (7), Section 76 (3) and (6), Section 76a (5) and Section 90c (6) to (8) in the version of the Copyright Act 2018, fts I No 63/2018 enter into force on 12 October 2018.

(13) Section 17 (3) and (4), Section 18 (3), Section 18b, 18c, 24b, 24c, 24c, 31b, 37c, 37b, 37e, 37f and 37 g, Section 40 (3), Section 42 (7), Section 42 (42), (42) (b), § 56 (57), (3) (a), § 59 (59a), and § 59 (68) (a), Section 4 (69), (71), (6), (74), (1), (f), (7), (76), (6) and (76). Section 57a, as amended by the Federal Act beans I No 244/2021, enters into force on 1 January 2022. The service providers covered by § 18c at the time of the entry into force of this Federal Act must have implemented the obligations provided for in § 89b by 1 April 2022 and subsequently to be added within three months of the commencement of activity. Section 89b (7) to (9) and § 89c in the version of the Federal Act beans I No 244/2021 enter into force on 1 March 2022.

(14) any further authorisation within the meaning of Section 17 (4) in the version of the Federal Act beans I No 244/2021, in respect of which authorisations were granted before 7 June 2021, is required only after 6 June 2025 for any further authorisation within the meaning of Section 17 (4) in the version of the Federal Act beans I No 244/2021.

(15) Section 18b, in the version of the Federal Act Gazette I No 244/2021, is to be applied to contracts relating to supplementary online services concluded before 7 June 2021.

(16) Articles 24c, 31a and 37b, as amended by the Federal Act beans I No 244/2021, are to be applied to contracts concluded after the entry into force of this Federal Act. Articles 37c, 37d, 37f, 37 g, and 57a, as amended by the Federal Act beans I No 244/2021, are also to be applied to contracts concluded prior to their entry into force in relation to acts of use that take place after their entry into force. Section 37d and, insofar as it refers thereto, Section 68 (4), as amended by the Federal Act beans I No 244/2021, enters into force on 7 June 2022.

(17) Section 74 (1) in the version of the Federal Act beans I No 244/2021 is to be applied to photographs that are still protected or are subsequently included at the time of the entry into force of this Federal Act. For a photograph depicting a work of figurative art for which protection has expired on the date of entry into force of this Federal Act, protection ends with the entry into force of this Federal Act.

(18) Section 76f in the version of the Federal Act beans I No 244/2021 is to be applied to press publications which are produced after 5 June 2019 in relation to acts of use which take place after the entry into force of this Federal Act. § 91 is to be applied to acts of use made after 31 March 2022.

Art. II.

Relationship with Community law

(Note: from Reference source not I No 25/1998, to plane No 111/1936)

By means of this Federal Act, the Copyright Act is adapted to Directive 96/9/EC of the European Parliament and of the Council on the legal protection of databases, OJ L 77 of 27 March 1996, p. 20.

Art. II.

Relationship with Community law

(Note: in Case I No 32/2003, on Sections 12, 15, 16, 18, 18a, 24, 40h, 41, 41a, 42, 42a, 42a, 42b, 42c, 43d, 44, 45, 46, 47, 51, 52, 54a, 56c, 56, 57c, 59, 68c, 69, 71a, 72, 74a, 76d, 76, 76, 81a, 82, 86b, 87c, 87 and 111/1936,

This Federal Act adapts the Copyright Act to Directive 2001/29/EC of the European Parliament and of the Council on the harmonisation of certain aspects of copyright and related rights in the information society, OJ L 167 of 22 June 2001, p. 10.

Art. II.

Relationship with Community law

(Note: from Reference source not I No 22/2006, regarding Sections 16b, 60 and 87b, breaches No 111/1936)

Article I (1), (7) and (9) codifies the Copyright Act to Directive 2001/84/EC of the European Parliament and of the Council on the follow-up of the author of the original work of art, OJ L 272 of 13. 10. 2001, page 32, adapted.

Art. II.

Relationship with Community law

(Note: from Reference source not I No 81/2006, regarding Sections 81, 87b and 87c, beans No 111/1936)

This Federal Act makes the Copyright Act to Directive 2004/48/EC of the European Parliament and of the Council on the enforcement of intellectual property rights, OJ L 157 of 30. 4. 2004, page 45, adapted.

Article II.

(Note: from sheets No 106/1953, regarding Sections 3, 7 (2), 9 (2), 33, 60, 61, 74 (6), 95,)

(1) Works which, at the time of the entry into force of this Federal Act, do not enjoy copyright protection because, in accordance with the regulations currently in force, they cannot be regarded as originating from a domestic country through the amendment of Section 9 (2) of the Copyright Act.

(2) If the exercise of copyright was restricted or unlimited before the entry into force of this Federal Act, this injunction does not, in case of doubt, extend to powers newly granted to the author by this Federal Act.

(3) Photographs whose period of protection has expired in accordance with the provisions currently in force on the date of entry into force of this Federal Act do not acquire new protection by virtue of the fact that they are to be regarded as light imaging within the meaning of Article I (1); furthermore, the provisions of this Federal Act for Lichtformworks, which were absorbed before the entry into force of this Federal Act, shall apply correspondingly.

(4) The provisions of Article 1 (11) and (12) also apply to works in respect of which, on the date of entry into force of this Federal Act, the period of protection had expired in accordance with the provisions in force to date; however, on the date of publication of this Federal Act, reproductions of such works which have already taken place on the date of publication of this Federal Act may be completed and these copies distributed as well as copies already in existence on the date of publication of this Federal Act.

(5) Works of the kind referred to in Section 2 (3) of the Copyright Act, which had already appeared at the time of the entry into force of this Federal Act and, according to the previous version of Section 7 of the Copyright Act, do not enjoy copyright protection through the amendment to Section 7 of the Copyright Act.

Article II.

(Note: from therefrom No 492/1972, regarding Sections 24, 26, 60, 61, 62, 66, 3 (2), 67 (1), 74 (6), 76 and 5, 76a, Reference No 111/1936)

- (1) In so far as it relates to the extensions of the period of protection, this Federal Act shall enter into force on 31. December 1972, for the rest, with effect from 1 June 1973.
- (2) Article I Z 2 to 3a, 7, 17a and 20a also applies to works developed before the entry into force of this Federal Act, performances and performances, photographs of pictures and manufactured sound carriers, in respect of which the period of protection has not yet expired in accordance with the previous provisions on that date.
- (3) If the author (section 10 (2) of the Copyright Act) has established a right of use of a work before the entry into force of this Federal Act or granted a permit to use a work, this injunction does not, in case of doubt, extend to the period of extension of the periods for which protection is sought by this Federal Act; however, a person who has acquired a right to use a work or a permit to use a work for remuneration, even during such extension, remains entitled, in return for payment of reasonable remuneration, to use the work. This applies accordingly to injunctions regarding the protected rights to lectures and performance of works of literature and music, to pictures and sound recordings.
- (4) If the submission or performance of a work of literature or musical art took place prior to the entry into force of this Federal Act, the rights of exploitation are to be assigned to the persons referred to in § 66 (1) and (2) of the Copyright Act in the previous version.
- (5) Article I (18) does not apply to a broadcast or public reproduction made before the entry into force of this Federal Act.
- (6) Article I (22) does not apply to radio programmes broadcast before the entry into force of this Federal Act.
- (7) Paragraphs 1 and 2 of Article III of the Copyright Act 1953, bread No 106, are repealed.

Art. II.

Transitional Provisions

(Note: from Reference No 295/1982, regarding Sections 61a, 61b and 61c, beans No 111/1936)

- (1) The Federal Minister for Education and art has the copyright register maintained pursuant to Regulation No 171/1936 with the copyright register under the Regulations RGrBl. No 198/1895 and prohibiting No 92/1921, together with all the items of the file relating to this register, to be transferred without delay to the Federal Ministry of Justice.
- (2) Section 61c (2) of the Copyright Act, as amended, applies to inspection of these registers and copies of extracts and issuing certificates.

Art. II.

(Note: from therefrom No 93/1993, regarding Sections 16a, 40b, 40c, 45, 51, 54, 67, 74, 76, and 76a, ared No 111/1936)

- (1) Subject to paragraph 2, this Federal Act enters into force on 1 March 1993.
- (2) Section 16a UrhG, as amended by this Federal Act, enters into force on 1 January 1994.
- (3) Section 16a UrhG in the version of this Federal Act also applies to items of work in respect of which the distribution right pursuant to Section 16 (3) UrhG lapsed before 1 January 1994. Such workpieces may, however, be permitted until 31. Rented on 25 December 1994; the author shall be entitled to adequate remuneration for this purpose. Section 16a (2), (4) and (5) UrhG, as amended by this Federal Act, shall apply mutatis mutandis to this claim for remuneration.
- (4) Paragraph 3 also applies to the corresponding validity of Section 16a pursuant to Art. 1 (8) to (11).
- (5) Articles 40b and 40c UrhG, as amended by this Federal Act, do not apply to computer programs that were created before 1 March 1993.
- (6) Art. 1 (5) to (7) does not apply to workpieces first distributed before 1 March 1993 (§ 16 UrhG). This also applies to Article 1 (9), insofar as it relates to the corresponding validity of Section 54 (2).
- (7) The Federal Ministry of Justice is entrusted with the implementation of this Federal Act.

Article III.

*(Note: from Reference source not No 106/1953, regarding Sections 24 and 26, breaches No 111/1936)
(Note: Paragraphs 1 and 2 are repealed by Article II (7) and tively No 492/1972.)*

(3) If the author (section 10 (2) of the Copyright Act) has established a right to use a work before the entry into force of this Federal Act or grants a permit to use a work, this injunction does not in doubt extend to the period of extension of the periods for which protection is sought by subsection 1; however, a person who has acquired a right to use a work or a permit to use a work for remuneration, even during such extension, remains entitled, in return for payment of reasonable compensation, to use the work. This applies accordingly to injunctions regarding the protected rights to the lectures and performances, photographs and sound carriers referred to in subsection 1 (b) to (d).

Art. IV.

Application to existing database files and databases

(Note: from sheets I No I No 25/1998, regarding Sections 40f to 40h and Sections 76c to 76e, ared l. No 111/1936)

- (1) Sections 40f to 40h UrhG in the version of this Federal Act also apply to database works which were created before 1 January 1998.
- (2) Sections 76c to 76e UrhG in the version of this Federal Act also apply to databases whose production between 1 January 1983 and 31. December 1997. In these cases, the period of protection begins on 1 January 1998.
- (3) Section 40h (2) and § 76e UrhG, as amended by this Federal Act, shall not be applied to contracts entered into before 1 January 1998.

Art. IV.

Transitional Provisions

(Note: in Case I No 32/2003, on Sections 12, 15, 16, 18, 18a, 24, 40h, 41, 41a, 42, 42a, 42a, 42b, 42c, 43d, 44, 45, 46, 47, 51, 52, 54a, 56c, 56, 57c, 59, 68c, 69, 71a, 72, 74a, 76d, 76, 76, 81a, 82, 86b, 87c, 87 and 111/1936,

The legality of duplications of a work, the recording of a submission or a performance, a photograph, a recording medium or the recording of a radio programme which were produced before the entry into force of this Act is to be assessed in accordance with the existing legal situation. In so far as the distribution of copies is permissible under the current legal situation, they may still be freely distributed.

Art. IV.

Transitional Provisions

(Note: from Reference source not I No 22/2006, regarding Sections 16b, 38 and 69, breaches No 111/1936)

- (1) Section 16b UrhG, as amended by this Federal Act, also applies to works which were created before the entry into force of this Federal Act.
- (2) Section 38 (1a), as amended by this Federal Act, applies to films produced commercially and Section 69 (1) in the version of this Federal Act for industrially produced cinematographic works and other cinematographic products, with their inclusion in each case after the 31th edition. 12. Started in 2005.
- (3) Section 38 (1a), second to fourth sentences, in the version of this Federal Act also applies by analogy to the right of the author under Article VI (3) of the Copyright Act No 1996.
- (4) Section 38 (1), first sentence, UrhG and the first sentence of Section 69 (1) UrhG in the version of this Federal Act also apply to the period of extension of the period of protection which was effected by the copyright law nouvelle 1972, net No 492/1972, and the copyright law Novelle 1996, ct No 151/1996; the author and the persons referred to in § 69 (1) UrhG are not entitled to any remuneration within the meaning of Article II (3) UrhGNov 1972 or Article VIII (3) UrhG November 1996.

Article 18
Transitional and final provisions

Personal designations

(Note: from Reference source not I No 75/2009, regarding Sections 55, 75 and 77, ared l. No 111/1936)

§ 1. For all personal titles, the selected form will apply to both gender.

(Note: from Reference source not I No 75/2009, regarding Sections 55, 75 and 77, ared l. No 111/1936)

§ 4. The provisions in force so far shall continue to apply to marriage concluded before the entry into force of this Federal Act.

(Translated with eTranslation – not revised)