

[AT] Copyright Act

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The legal basis of the current copyright law in Austria is the Bundesgesetz über das Urheberrecht an Werken der Literatur und der Kunst und über verwandte Schutzrechte (Urheberrechtsgesetz) (Federal law on copyright in literary works, works of art and related rights - the “Copyright Act”).

The task of the Copyright Act is to protect works in the fields of literature, sound and music, art and cinematography and to enable the pecuniary and non-pecuniary interests of the copyright holders and holders of neighbouring rights to be asserted. Copyright comes about when a creator produces a work (section 10(1) of the Copyright Act). No formal act, such as registration, is required to obtain copyright protection for a work. By section 1(1) of the Copyright Act, works are “unique intellectual creations in the fields of literature, sound and music, art and cinematography”. The work enjoys copyright protection both in its entirety and with regard to its individual parts. Rights can be granted either against payment or free of charge. The term of copyright under the Act differs according to the item protected. Copyright in works ends 70 years after the creator’s death (or the death of the last living co-creator). The term for music recordings (neighbouring rights of producers and performers) is 50 years from the date of publication. The term for films ends 70 years after the death of the last survivor from the circle of the principal director and the author of the script, the dialogues and the music created especially for the film. The term for neighbouring rights of film actors is 50 years from the end of the year in which the performance has taken place or 50 years from the date of publication when the performance was recorded on an image or sound carrier before the expiry of this time-limit. For the first publishers of posthumous works, the term is 25 years and for database producers 15 years. After the term has expired, the work or performance is available for any use desired.

The Copyright Act, which had been in force since 1936, underwent its most significant change when it was amended by the National Council, the Austrian lower house, in 1996 (see IRIS 1996-10/19). That amendment mainly took account of the new ways of using copyrighted works. The key changes were the creation of a reprographic fee to be paid for copies for a person’s own use, an improvement in the legal position of film copyright holders (sections 38 ff. of the Copyright Act), improvements to facilitate access to copyrighted works for teaching purposes (section 56c of the Copyright Act), the introduction of a

statutory licence for the exhibition of films by means of standard video cassettes in hotels, etc (section 56d of the Copyright Act), the extension of copyright terms for films (section 62 of the Copyright Act) and adapting the law to conform to Directive 93/83/EEC.

The 1997 amendment to the Copyright Act (see IRIS 1997-6/15 and IRIS 1997-10/19) led to the transposition of Directive 96/9/EC on the legal protection of databases (sections 40f ff., 76c ff. of the Copyright Act). Special rules were introduced for database works, especially provisions on reproduction rights, on the free use of works and on trademark rights. When a work is described as a database work, it must be a “unique intellectual creation”.

The Copyright Act 2003 led to the transposition of Directive 2001/29/EG into Austrian law (see IRIS 2002-10/25). The rules of the Copyright Act were adapted, especially in the light of new technical means of exploitation (e.g. digitisation and the internet), with the introduction of the right to interactive public performance, with a minor change to the list of free uses of works (e.g. sections 40h, 41, 41a, 42, 42a, 42b, 42c of the Copyright Act) and with an improvement in legal protection against the circumvention of technical measures (e.g. sections 90b, 90c, 90d of the Copyright Act). The digitisation of protected works constitutes copying, the right to which is held by the creator. Examples of cases involving digital reproduction include scanning photographs, copying a CD or DVD onto a PC hard disk or downloading music and films from the internet.

The amendment to the Copyright Act 2005 transposed Directive 2001/84/EC into domestic law and extended the film creator’s right granted by the 1996 amendment to a share in a cable fee.

The purpose of the 2006 amendment to the Copyright Act was to adapt the Act to Directive 2004/48/EC, which resulted in particular in the adaptation of sections 81, 87b, 87c of the Copyright Act.

Bundesgesetz über das Urheberrecht an Werken der Literatur und der Kunst und über verwandte Schutzrechte (in der Fassung vom 27. Juli 2010)

http://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/10001848/Urheberrechts_gesetz%2c%20Fassung%20vom%2027.08.2010.pdf

Federal law on copyright in literary works, works of art and related rights (version of 27 July 2010)

