

# Hungary

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## 1. Copyright treaties and conventions

Hungary is a party to the following main international copyright treaties and conventions:

Common name	Full name	Entry into force
Berne Convention	Berne Convention for the Protection of Literary and Artistic Works	February 14 1922
WIPO Convention	Convention Establishing the World Intellectual Property Organization	April 26 1970
TRIPS Agreement/the WTO	Agreement Establishing the World Trade Organization, Annex 1C, Trade-Related Aspects of Intellectual Property Rights (TRIPS)	January 1 1995
Rome Convention	Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations	February 10 1995
WCT	WIPO Copyright Treaty	March 6 2002
WPPT	WIPO Performances and Phonograms Treaty	May 20 2002

As an EU member state, Hungary has implemented all EU Copyright Directives in addition to one Commission Recommendation (in relation to the compulsory licensing of the use of orphan works).<sup>1</sup>

## 2. What can be protected?

The Hungarian Copyright Act<sup>3</sup> grants legal protection to all categories of works, as well as to all subject matters that are protected by related rights in the European Union. In the Hungarian system of copyright protection, copyright is to be understood as an author's right and all other protectable subject matters are protected under the umbrella of related rights, which in turn covers neighbouring rights (ie, the protection of performances, sound recordings, films and radio and television programmes) and the *sui generis* protection of databases. Films and databases might be cumulatively protected (see section 2.3 below).

### 2.1 How is a protected 'work' defined?

A work must be literary, scientific or artistic. A work is entitled to copyright protection as an intellectual creation, on the basis of its individual and original nature deriving from the intellectual activity of the author. The copyright protection does not depend on quantitative, qualitative or aesthetic characteristics or any judgement of the quality of the work. There are statutory exemptions from the copyright protection, such as: laws and other legal instruments of the government; court rulings and regulatory resolutions; regulatory and other official communications and documents; standards prescribed as mandatory by law and other similar regulations; facts and daily news items; ideas; principles; theories; procedures; operating methods; mathematical operations and folklore expressions (notwithstanding the legal protection of works, performances, sound recordings, broadcasts and films inspired by folklore expression). The legal protection of subject matters protected by related rights are provided for in special chapters of the Copyright Act. Performances, sound recordings, radio and TV broadcasts, films and databases are protected by the so-called related rights protection. Films and databases are protected even if they do not qualify as works. (See the introductory part of this section regarding related rights protection.)

### 2.2 What are the criteria for protection?

There are no specific criteria for the protection of the categories of works. Even the list of the categories of works is not exhaustive but, rather, a list of typical examples,

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- 1 Council Directive 91/250/EEC of May 14 1991 on the legal protection of computer programs; Council Directive 93/83/EEC of September 27 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission; Directive 96/9/EC of the European Parliament and of the Council of March 11 1996 on the legal protection of databases; Directive 2001/29/EC of the European Parliament and of the Council of May 22 2001 on the harmonization of certain aspects of copyright and related rights in the information society; Directive 2001/84/EC of the European Parliament and of the Council of September 27 2001 on the resale right for the benefit of the author of an original work of art; Directive 2004/48/EC of the European Parliament and of the Council of April 29 2004 on the enforcement of intellectual property rights; Directive 2006/115/EC of the European Parliament and of the Council of December 12 2006 on rental rights and lending rights and on certain rights related to copyright in the field of intellectual property; Directive 2006/116/EC of the European Parliament and of the Council of December 12 2006 on the term of protection of copyright and certain related rights; Commission Recommendation 2006/585/EC of August 24 2006 on the digitization and online accessibility of cultural material and digital preservation, Articles 6 (a) and (c).
  - 2 Act LXXVI of 1999 as amended 18 times since promulgation.

meaning that any intellectual creation in the field of literature, science or art, no matter whether listed or not in the Copyright Act, is eligible for protection.

## 2.3 Specific works

### (a) *Literary works*

Literary works (eg, fictional literature, non-fictional literature such as technical works or scientific publications), public speeches and all forms of computer programs and their related documents (collectively called software) can be the subject matter of protection, no matter whether recorded as source code, object code, or in any other form. Even the function of the software is neutral. The protection also covers user programs, operating systems and interfaces.

### (b) *Dramatic works*

All categories of theatre plays, musicals, ballets, pantomimes, and radio and television plays are protected if they meet the general requirements (see section 2.1).

### (c) *Musical works*

Musical compositions with or without lyrics are subject to copyright protection.

### (d) *Artistic works*

A number of categories of works are listed as examples of artistic works in the Copyright Act. Works made by means of drawing, painting, sculpting, engraving, lithography, or in any other similar manner (as well as their designs), photographic works, maps and other cartographic works, architectural works and their plans (layouts), plans for building complexes and urban architecture, designs for technical constructions, applied art works and their designs, costume and scenery designs and designs of industrial constructions are all eligible for protection.

### (e) *Sound recordings*

Sound recordings are the subject matter of neighbouring rights (and not copyright ie, author's right) protection. The Copyright Act does not provide for the definition of sound recordings, since the corresponding neighbouring rights conventions (ie, the Rome Convention and the WIPO Performances and Phonograms Treaty) include the applicable definition.

### (f) *Films*

Motion pictures and other audiovisual works (ie, cinematographic creations) are eligible for copyright protection. In addition, films are eligible for neighbouring rights protection. The original holder of this neighbouring right is the producer of the film. The essence of the neighbouring right is that film producers will enjoy the right of reproduction, distribution, and making available on demand, even if the film does not qualify as a cinematographic creation. (If the film is a cinematographic creation, the protection is cumulative.)

(g) **Typographical arrangements**

Typographical arrangements as such are not protected. However, if the arrangement is individual and original, the arrangement can be protected as a graphic work. The same applies to the protection of fonts.

(h) **Databases**

If a database qualifies as a compilation (ie, a work of collection), it is subject to copyright (ie, authors' right) protection. A compilation is protected by copyright if the collection, arrangement or editing of the content is individual and original. The copyright protection of collections of works is independent of the eventual legal protection of its parts (components). The editor (ie, the creator) is the original holder of the copyright for the collection of works. This copyright protection may be cumulative with the *sui generis* (related right) protection of databases if the database meets the requirements of this type of legal protection. (If the database does not qualify as a work of collection, but satisfies the requirements of the *sui generis* protection, this protection alone will exist.) The *sui generis* right pertains to the maker of a database which shows that a qualitatively and/or quantitatively substantial investment has been made in obtaining, verifying or presenting the contents of the database. Under the *sui generis* right, the holder of the right may prevent extraction and/or reutilisation<sup>3</sup> of the whole or of a substantial part (to be evaluated qualitatively and/or quantitatively) of the contents of the database.

(i) **Other**

Collective works are subject to copyright protection. Collective works are usually works made upon the initiative and under the direction of a person (entity). In the collective work, the contributions of the cooperating authors are amalgamated in the resulting uniform work in such a manner that the rights of the individual authors cannot be separately exercised. The person (entity) that initiated and controlled the creation of the collective work, and that makes available the collective work to the public in its own name, is the derivative holder of the economic rights in the collective work as the authors' legal successor. An example of a collective work is a set of national standards.

Performances, radio and TV programmes (in addition to sound recordings and films) are subject matters of neighbouring rights protection in accordance with the Rome Convention, TRIPS Agreement, the WIPO Performances and Phonograms Treaty and the corresponding EU Directives.

### **3. Formalities for protection**

The protection does not depend on any formalities. The creation of the work gives rise to the legal protection. There are voluntary register/deposit systems<sup>4</sup> which can

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3 'Extraction' is reproduction (the permanent or temporary transfer of all or a substantial part of the content of a database to another medium by any means or in any form), while 'reutilisation' is distribution and communication to the public with some exceptions (making available to the public all or a substantial part of the content of a database by the distribution of copies, save for public lending, by online or other acts of transmission).

help to offer evidence in copyright disputes, but the registration/deposit does not constitute a legal protection even if it brings about a presumption of authorship (the registration/deposit of the work with HIPO<sup>5</sup>).

#### 4. Duration of protection

Type of work	Duration of protection	Comments
Literary	Lifetime of the author, plus 70 years	In the case of joint authorship, the duration of protection is calculated from the death of the last-surviving author
Dramatic	Lifetime of the author, plus 70 years	As above
Musical	Lifetime of the author, plus 70 years	As above
Artistic	Lifetime of the author, plus 70 years	As above
Sound recordings	50 years from first putting into circulation/ communication to the public  70 years from first putting into circulation/ communication to the public	From November 2013, the act to implement Directive 2011/77/EU of the European Parliament and of the Council of September 27 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights will come into force. As a consequence, the term of protection for sound recordings and performances fixed in sound recordings will be 70 years from the circulation/ communication to the public of the sound recording

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4 At the HIPO (see footnote 5 below), or at Artisjus, see [www.artisjus.hu/egyebtevekenyseg/onkentes\\_mujezyzek.html](http://www.artisjus.hu/egyebtevekenyseg/onkentes_mujezyzek.html) (November 2 2011). (Registration or deposit with Artisjus does not bring about a presumption of authorship.)

5 The Hungarian Intellectual Property Office, [www.sztnh.gov.hu/English/szerzoi jog/onkentes](http://www.sztnh.gov.hu/English/szerzoi jog/onkentes) (November 2 2011).

Type of work	Duration of protection	Comments
Films	<p>Copyright: lifetime of the authors, plus 70 years from the death of the last-surviving author.</p> <p>Neighbouring rights: 50 years from the first day of the year following the year in which the film was released for distribution. If the film was not released, 50 years from the first day of the year following the year in which production of the film was completed</p>	
Typographical arrangements	–	
Collective works	70 years calculated from the first day of the year following the year in which the work was first published	
Databases	<i>Sui generis</i> protection: 15 years from the making of the database or, if the database has been made public, from the date of first making public	

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Type of work	Duration of protection	Comments
Performers	<p>If the performance is fixed: 50 years from the first day of the year following the year in which the recording was first distributed or, if the recording was not distributed, from the first day of the year following the year in which the recording was made</p> <p>If the performance is unfixed: 50 years from the first day of the year following the year in which the performance occurred</p> <p>–</p> <p>In the case of performances fixed on sound recordings, 70 years from first putting into circulation/communication to the public of the sound recording</p>	<p>From November 2013, the act to implement Directive 2011/77/EU of the European Parliament and of the Council of September 27 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights will come into force. As a consequence, the term of protection for sound recordings and performances fixed in sound recordings will be 70 years from the circulation/communication to the public of the sound recording</p>
Broadcasts	50 years from first day of the year following the year in which the first broadcast occurred	

The Copyright Act provides for a term of protection of 70 years for authors' rights and of 50 years for neighbouring rights.<sup>6</sup>

The term of protection of the *sui generis* right applicable to databases amounts to a renewable (in the case of extension or arrangement of the database) 15 years.

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6 The commencement date is provided for in detail. In short, the year of the first act of putting into circulation/communication to the public is the date of the commencement of the protection.