

WORLD TRADE ORGANIZATION

ORGANISATION MONDIALE DU COMMERCE

ORGANIZACIÓN MUNDIAL DEL COMERCIO

IP/N/1/AUT/C/2

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**Council for Trade-Related Aspects
of Intellectual Property Rights**

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

Austria

The present document reproduces¹ the 1996 Copyright Act Amendment - UrhGNov 1996, as notified by Austria under Article 63.2 of the Agreement (see document IP/N/1/AUT/1/Rev.2).

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

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

Autriche

Le présent document contient le texte de la Loi de 1996 portant modification de la Loi sur le droit d'auteur - UrhGNov 1996¹, notifiée par l'Autriche au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/AUT/1/Rev.2).

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

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

Austria

En el presente documento se reproduce¹ la Ley de modificación de la Ley de Derecho de Autor - UrhGNov 1996, notificada por Austria en virtud del párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/AUT/1/Rev.2).

¹In English only/anglais seulement/inglés solamente.

151th Federal Law with which the Copyright Act and the 1980 Copyright Act Amendment are amended (1996 Copyright Act Amendment -UrHGNov 1996)

The National Council decided:

Article I

Amendment to the Copyright Act

The Copyright Act, Federal Law Gazette No. 111/1936, amended by the Federal Law as promulgated in Federal Law Gazette No. 93/1993, shall be amended as follows:

1. In § 3, para 1, the terms "handicraft" shall be replaced by "applied art (handicraft)"
2. In § 16, para 3 the expression "subject to § 161" shall be replaced by "subject to §§ 16 a and 16 b".
3. The following § 16 b shall be inserted after § 16 a:

"Exhibiting

§ 16 b. (1) § 16, paras 2 and 3 shall apply to the public exhibiting of copies under the provision that the author shall be entitled to equitable remuneration, if copies of graphic art are exhibited for commercial purposes against payment. Such claims shall be enforceable by performing rights societies only. § 16 a, para 5 shall apply mutatis mutandis.

(2) Para 1 shall not apply to works of applied arts (handicraft)."

4. The following § 17 a and 17 b shall be inserted after § 17:
*§ 17 a. If the programme carrying signals are broadcast coded, this shall be considered as radio broadcast only if the means for decoding the broadcast have been made accessible to the public by the radio broadcaster or upon his consent.

§ 17 b. (1) In the case of a radio broadcast via satellite the exploitation activity reserved for the author shall encompass the input of the programme carrying signals, under the control and responsibility of the radio broadcaster, into an uninterrupted communication chain leading to the satellite and back to earth. The radio broadcast via satellite shall therefore, subject to para 2, only be realized in the country in which this input is undertaken.

(2) If the input as specified in para 1 is undertaken in a country which is not a member state of the European Economic Area and in which the protection level provided for in chapter II of the directive of the Council of the European Communities, dated 27th September, 1993, for the coordination of certain provisions in respect of the protection of authors and services regarding satellite broadcasting and diffusion by cable, ABL No L 248, dated 6th October, 1993, p.15, in the version applying to Austria in accordance with Annex XVII of the EEA agreement, is not guaranteed, no broadcast shall be undertaken

1. in the Member State of the European Economic Area in which the terrestrial broadcasting station is situated from which the programme carrying signals are transmitted to the satellite:
2. if the precondition according to Z 1 is not met, in the Member State of the European Economic Area, in which the

radio broadcaster, who commissioned the input as referred to in para 1, has his main office.

(3) In the cases of para 2 the operation of a terrestrial broadcasting station and/or the commissioning of an input as referred to in para 1 shall be understood as a broadcast in the meaning of § 17, para 1."

5. The following sentence shall be inserted in § 38, para 1 after the first sentence:

"The film producer and the author shall be entitled to equal shares in the legal remuneration claims unless they are unrenounceable and the film producer has not entered into any other agreement with the author."

6. The following sentence shall be added to § 39, para 4:

"in as far as these authors have not entered into any other agreement with the film producer, this consent shall not be required for translations and adaptation including the completion of an unfinished cinematographic work, required for the ordinary exploitation of the cinematographic work in accordance with honest habits and practices not detrimental to the intellectual interests of the author in his work."

7. § 39, para 5 shall be canceled.

8. § 42 shall read:

"Reproduction for one's own use

§ 42 (1) Anyone shall be entitled to reproduce copies of a work for his/her own use.

(2) If such reproduction is made for the purpose of making the work accessible to the public by means of the copy made, this shall not be considered as a reproduction for one's own use, subject to paras 4 and 5. Copies reproduced for one's own use must not be used for the purpose of making the work accessible to the public.

(3) Schools and universities shall be permitted to produce and distribute for the purpose of instruction and/or education to the extent justified thereby as many reproduction copies as are required for a certain class or lecture (Reproduction for use at school). The authorization to reproduce works for use at school shall not apply to works destined for instruction and education by their nature and designation.

(4) Institutions open to the public and collecting copies shall be entitled, unless this is done for commercial purposes (reproduction for internal use of collections):

1. to reproduce one copy each of their own copies; such a reproduced copy may be exhibited (§ 16, para 2), lent (§ 16 a), and used according to § 56 b under the same conditions as the latter;
2. to make copies of published, but not marketed or sold out works; for as long as such works have not been marketed or are sold out, such reproduced copies may be exhibited (§ 16, para 2), lent according to § 16 a and used according to § 56 b.

(5) The following reproductions shall, however, be permissible only upon the consent of the rightholder:

1. the reproduction of entire books or magazines unless this is done by copying the latter by hand, or the work concerned is an unpublished or out of sale one, or the preconditions of para 4, Z 1 apply; this provision shall also apply if the reproduction basis is not the book or magazine as such but a reproduction of the book or magazine obtained in whatever way;
2. the execution of a work of architecture according to a plan or design or the reconstruction of such a work."

9. The following §§ 42 a and 42 b shall be inserted after § 42:

"§ 42 a. Upon an order individual reproduction copies may be made free of charge also for an other persons's use. Such reproduction shall be permissible also against payment

1. if the reproduction is made by means of reprographic or similar methods;
2. if a work of literature or music is reproduced by copying by hand.

§ 42 b. (1) If it is to be anticipated that a work which is broadcasted on the radio or recorded on a picture or sound carrier produced for commercial purposes, will be reproduced for a persons's own use by recording it on a picture or sound carrier, the author shall be entitled to equitable remuneration (empty cassette remuneration), if the carrier material is put on the domestic market for sale; carrier material shall refer to unused picture or sound carriers suitable for such reproduction, or other picture or sound carriers destined for such purposes.

(2) If it is to be anticipated that a work because of its kind will be reproduced by means of reprographic or similar methods for a person's own use, the author shall be entitled to equitable remuneration (reprographic reproduction remuneration):

1. if an equipment which by its construction is destined for such reproduction (reproduction equipment), is put on the domestic market for sale (equipment remuneration), and
2. if a reproduction equipment is operated at schools, universities, institutions for educational or other vocational and further training purposes, research institutions, public libraries or institutions operating reproduction equipment against payment (operator remuneration).

(3) The following persons shall have to pay the remuneration:

1. The remuneration for empty cassettes and/or equipment the person who first puts on the domestic market against payment and for commercial purposes the carrier material and/or the reproduction equipment; anyone subsequently putting the carrier material and/or the reproduction equipment on the domestic market against payment and for commercial purposes or offers the latter for sale, shall be liable as guarantor and payer. Exempt from the liability for empty cassette remuneration shall be a person receiving sound carriers with not more than 5 000 hours playing time and picture carriers with not more than 10 000 hours playing time within a period of half a year;
2. The operator remuneration the operator of the reproduction equipment.

(4) When assessing the remuneration the following circumstances shall be taken into special consideration:

1. in respect of the empty cassette remuneration the playing time;
2. in respect of the equipment remuneration the capacity of the equipment;
3. in respect of the operator remuneration the type and scope of utilization of the reproduction equipment to be anticipated in view of the circumstances, above all the type of enterprise, the location of the equipment and the customary use.

(5) Remuneration claims in accordance with paras 1 and 2 can only be made by performing rights societies.

(6) The performing rights society shall pay back the equitable remuneration

1. to the person exporting the carrier material or a reproduction equipment prior to selling the latter to an end user;
2. to the person using carrier material for a reproduction for another than his own use, unless this use refers to a free utilization of a work; prima facie evidence shall suffice."

10. The former § 42 a shall be defined as § 42 c.

11. § 45, para 1 shall read:

"(1) individual literary works or works of the kind described in § 2, Z 3 may be reproduced and distributed upon publication to an extent justified by the respective purpose:

in a collection containing works of several authors and which by its nature and denomination is destined for church, school, or education purposes; a work of the kind referred

to in § 2, Z 3 may only be included for an explanation of the contents;

2. in a work which by its nature and denomination is destined for school use, only for an explanation of the contents."

12. § 51, para 1 shall read:

"(1) Individual works of music may be reproduced and distributed upon publication in the form of notations in a work, which by its nature and denomination is destined for school use, to an extent justified by the purpose:

1. if they are included in a collection combining works of several authors and destined for music lessons,
2. if they are only included for an explanation of the contents."

12 a. In § 53, para 1, Z 4 the term "music band" shall be replaced by the phrase "music band or such a chorus".

13. § 54, para 1, Z 3 shall read:

"3. to reproduce and distribute individually published works of graphic art in a work which by its nature and denomination is destined for school and education purposes only for the explanation of the contents, or in such a school book for the purposes of art education of the youth."

14. The following Z 3a shall be inserted after § 54, para 1, Z 3:

"3 a. to reproduce and distribute individually published works of graphic art in a scientific work constituting the main topic;"

15. The following §§ 56 a and 56 b shall be inserted after § 56:

“Permitting the use of picture or sound carriers to federal institutes for audiovisual media.

§ 56 a (1) Picture or sound carriers on which a published work is recorded, may be distributed by permitting the use to federal institutes for audiovisual media (§ 30 a of the research organisation law, Federal Law Gazette No. 34/1981). For this purpose also a reproduction of the picture or sound carrier shall be permitted.

(2) Para 1 shall not apply to picture or sound carriers having been produced or distributed by violating an exclusive right to reproduce or distribute the work recorded on these carriers.

Use of picture or sound carriers in libraries

§ 56 b (1) Institutions open to the public (libraries, collections of picture or sound carriers and the like) may use picture or sound carriers for public recitations, performances and presentations of the works recorded thereon to not more than two visitors at a time of the institution, provided this is not done for commercial purposes. The author shall be entitled to equitable remuneration therefor. Respective claims can only be made by performing rights societies.

(2) Para 1 shall not apply if a picture or sound carrier is used which was produced or distributed by violating an exclusive right to reproduce or distribute the work recorded thereon.

Public communication during lessons

§ 56 c (1) Schools and universities may, for the purpose of instruction and/or training to the extent justified thereby, publicly perform cinematographic works and related works of music; the right to play feature films shall be restricted to universities though.

(2) For a public performance in accordance with para 1 the author shall be entitled to equitable remuneration. Such claims can only be made by performing rights societies.

(3) Paras 1 and 2 shall not be applicable

1. to cinematographic works, which by their nature and designation are destined for use at schools and universities;
2. if a picture or sound carrier is used which was produced or distributed by violating an exclusive right to reproduce or distribute the work recorded thereon.

Public communication in accommodation enterprises

§ 56 d (1) Accommodation enterprises may publicly perform cinematographic works for the guests they accommodate, if

1. at least two years have passed since the first performance of the cinematographic work in Austria or in the German language or in a language of a minority group recognized in Austria,
2. the performance is realized by means of a picture or sound carrier manufactured for commercial purposes and the distribution of which is permissible in accordance with § 16, para 3, and

3. the audience is admitted free of charge.

2) For the public performance in accordance with para 1 the author shall be entitled to equitable remuneration. Such claims can only be made by performing rights societies."

16. § § 59 a and 59 b shall read:

"§ 59 a (1) The right to use broadcasts of works including those via satellite for the simultaneous, complete and unchanged transmission by means of cable can only be asserted by performing rights societies; this shall not apply, however, to the right of asserting infringements of copyright at court.

(2) Broadcasts may be used for a transmission within the meaning of para 1 if the transmitting radio broadcaster has obtained permission to do so from the competent performing rights society (§ 3 VerwGesG, Federal Law Gazette No. 112/1936). By reference to this permission also the authors who did not conclude a protection of rights' contract and whose rights are not protected on the basis of 2a reciprocity contract with a foreign performing rights society either, shall have the same rights and obligations as the right holders of the performing rights society.

(2) Paras 1 and 2 shall not apply, however, if the right of transmission in the meaning of para 1 rests with the radio broadcaster whose broadcast is transmitted.

§ 59 b (1) If no contract is concluded on the permission of transmission in the meaning of § 59 a, every one shall be entitled to request judicial assistance from the arbitral body (art. III Urh GNov. 1980). The arbitral body may submit proposals to the parties. Such a proposal shall be considered as accepted by

the parties if none of the latter raises an objection within a period of three months.

(2) If no contract on the permission of transmission in the meaning of § 59 a, para 1 is concluded for the simple reason that the performing right society or the authorized radio broadcaster (§ 59 a, para 3) failed to enter into the negotiations in good faith or hindered or prevented the latter without good cause, the transmitting radio broadcaster shall be entitled to obtaining a permission at equitable conditions."

17. § 61 shall read:

"§ 61. The copyright of works the author of which (§ 10, para 1) had not been designated in a way giving reasons in support of assuming the authorship in accordance with § 12, shall end seventy years upon its creation. However, if the work is published prior to expiry of this period, the copyright shall end seventy years after publication."

18. § 62 shall read:

"Cinematographic works

§ 62. The copyright of cinematographic works shall end seventy years after the death of the last living representative of the following persons, i.e. the chief producer and the author of the film script, of the dialogues and of the musical work specially created for the cinematographic work."

19. § 63 shall read:

"Serial works

§ 63. For works published in several volumes, parts, consignments, numbers or episodes and in respect of which the publication represents the decisive fact for the commencement of the protection period, the latter shall be assessed at the publication of each component."

20. § 67, para 1 shall read:

"(1) The exploitation rights of the persons referred to in § 66, paras 1 to 5, shall expire fifty years after the recitation or performance; if, however, a picture or sound carrier on which the recitation or performance is recorded, is published prior to the expiry of this period, fifty years after the publication. The respective periods shall be assessed according to § 64."

21. In § 67, para 2, the quotation "\$ § 59 a and 59 b" shall be canceled.

22. § 69, para 2, last sentence shall read:

"§ 42, paras 3 and 4, § 42 b, paras 1 and 3 to 6 shall apply accordingly."

23. § 69, para 3, shall read:

"(3) § 56, paras 1 and 3, and § 56 a shall apply accordingly."

24. In § 70, para 1 the last half sentence shall read:

"§ 33, para 1, § 66, para 6, § § 59 a and 59 b shall apply accordingly."

25. The heading of section II of the Second Main Part shall read:

"Section II

Protection of pictures, sound carriers, radio broadcasts,

and posthumous works'

26. In § 74, para 6, first sentence and in § 76 a, para 4, first sentence, the words "thirty years" shall in both cases be replaced by "fifty years."

27. § 74, para 7 shall read:

"(7) § § 5, 7 to 9, 11 to 13, 14, para 2, § 15, para 1, § § 16, 16 a, 16 b, 17, 17 a, 17 b, 18, para 3, § 23, paras 2 and 4, § § 24, 25, paras 2 to 6, § § 26, 27, paras 1, 3, 4 and 5, § 31, para 1, § 32, para 1, § 33, para 2, § § 36, 37, 41, 42 a, 42 b, 42 c, 54, para 1, Z 3, 3a and 4, and para 2, § § 56, 56 a, 56 b, 59 a and 59 b shall apply to pictures, § § 56 c and 56 d to cinematographic products mutatis mutandis; however, § 42 a, second sentence, Z 1 shall not apply to reproductions of commercially manufactured pictures on the basis of a model obtained by means of a photographic process."

28. § 76, para 4, last sentence shall read:

"§ 42, paras 2 and 3, § 42 a and § 42 b, paras 1 and 3 to 6 shall apply accordingly."

29. In § 76, para 6, quotation "42 a" shall be replaced by "42 c"; the semicolon after the first half sentence shall be replaced by a full stop, the second half sentence shall be canceled.

30. The following sentence shall be added to § 76 a, para 3:

"§ 42, paras 3 and 4 shall apply accordingly."

31. In § 76 a, para 5 the quotation "42 a" shall be replaced by "42 c" and the quotation "56" by "56, 56 a"; quotation "§ 59 a" shall be canceled.

32. The following § 76 b shall be inserted after § 76 a:

"4. Posthumous Works

§ 76 b. Anyone publishing an unpublished work for which the protection period has expired, with due permission, shall be entitled to the exploitation rights of the work in the same way as an author. This protection right shall expire twenty-five years after the publication; the period shall be assessed according to § 64."

33. In § 86, para 2 the quotation "§ 56, para 3" shall be replaced by "§ 56, para 3, § 56 b, para 2, 56 c, para 3, Z 2, § 56 d, para 1, Z 2."

33 a. § 87 a, para 1, first sentence shall read:

Anyone compelled by virtue of this law to pay an equitable compensation or an equitable remuneration, an equitable share of such a consideration, to pay damages or render the profit made, shall be obliged to render an account to the rightholder and to have the correctness of such an account checked by an expert."

34. § 87 a, para 2 shall read:

"Anyone liable as guarantor of payer in the meaning of § 42 b, para 3, Z 1, shall inform the rightholder also about the person from whom he received the carrier material or the reproduction equipment, unless he/she pays the remuneration."

35. In § 87 a, para 3, the quotation "§ 42, para 5, last sentence" shall be replaced by "§ 42 b, para 3, Z 1".

36. § 90 a, para 11, para 2 and para 3 shall read:

(1) Carrier material and reproduction equipment in the meaning of § 42 b, released for free circulation or deposited at a depot of type D in the meaning of the respective customs provisions, shall have to be declared by the declarant in line with the specifications according to paras 3 and 4 with a separate declaration. In this declaration the number of pieces, the type and trade marks of the declared goods shall be stated; with carrier material moreover the length of performance, and with reproduction equipment the capacity (reproductions per minute) shall be indicated. The declaration is a necessary document for customs clearance in the meaning of the customs provisions. The declarations shall be transmitted by the customs offices to the performing rights societies asserting claims in accordance with § 42 b and, in connection therewith, § 69, para 3, § 74, para 7, and § 76, para 4.

(2) Exempt from this obligation to declare in accordance with para 1 shall be consignments remaining exempt from import duties in accordance with customs provisions; in the case of carrier material also consignments consisting of not more than 100 pieces.

(3) The Federal Minister of Justice shall stipulate by decree, in agreement with the Federal Minister of Finance, which goods designated according to the positions of the combined nomenclature (regulation EEC No. 2658/87 of the Council of 23rd July, 1987, on the customs tariff and statistical nomenclature and the common customs tariff, O.J. No. L 253 of 11th October, 1993, p. 1 in the respective current version) shall fall under the obligation of declaration according to para 1 and to which performing rights societies the declarations shall have to be sent; the decree shall, furthermore, stipulate the form and contents of the declaration. The decree shall have to take the necessary administrative expenditure and the requirements of the performing rights societies into due consideration."

(4) In as far as the protection of copies for which the protection period according to the provisions in force so far is revived according to para 2, reproductions started before July 1st, 1995 may be completed also after March 31st, 1996 and such reproductions as well as reproduced pieces already available before July 1st, 1995 be distributed also after March 31st, 1996. This shall apply mutatis mutandis to recitations and performances of works of literature and music, photos and radio broadcasts.

36. a. § 90 a, para 5, shall read:

"(5) The declarant and the recipient of the declared goods stated in the declaration shall have to inform the performing rights societies referred to in para 1 upon their request correctly and completely on the relevant circumstances of the payment obligation."

37. The following sentence shall be added to § 91, para 1:

The interference shall not be punishable, however, if it only concerns the unauthorized reproduction or an unauthorized recording of a recitation or a performance for a person's own purposes or free of charge upon request for another person's own use."

38. The following para 2 a shall be inserted after § 91, para 2:

"(2 a) Whoever commits a punishable act commercially, shall be punished with imprisonment of up to two years."

39. The following § 99 b shall be inserted after § 99 a:

"Posthumous works

§ 99 b. For the protection of posthumous works (§ 76 b) the provisions of §§ 94 to 96 shall apply mutatis mutandis."

Article II

Modifications of the Amendment to the 1980 Copyright Law

The Federal Law of 2nd July, 1980, Federal Law Gazette No. 321, with which the Copyright Law is amended (Urheberrechtsgesetznovelle 1980 - UrhGNov. 1980), last amended by the Federal Law as promulgated in Federal Law Gazette No. 612/1989, shall be amended as follows:

1. Art. II, para 1, first sentence shall read:

In respect of enterprises pursuing the purpose of asserting claims for empty cassette remuneration (§ § 42 b, 69, 74 and 76 UrhG) the Performing Rights Societies Law and the decree as published in Federal Law Gazette No. 188/1936 and equivalent to a federal law shall be applied as far as provided for in paras 2, 3, 5 and 6 and Article III mutatis mutandis as regards their entire activities, in as far as the Performing Rights Societies Law in Federal Law Gazette No. 112/1936 had not already been applicable."

2. Art. II, para 4 shall be canceled.

3. In art. II, para 6 the second sentence shall lapse.

4. In art. II, para 6, last sentence the quotation "para 1, Z 1" shall be replaced by "para 1".

Article III

Entering into force and implementation

(1) This Federal Law shall enter into force on April 1st, 1996, except for para 2.

(2) Art. 1, Z 16, 21 and 24 (§ § 59 a and 59 b UrhG in the version of this Federal Law and the corresponding validity of these provisions according to § 67, para 2, and § 70, para 1 UrhG in the version of this Federal Law) and Art. II shall enter into force as at January 1st, 1998.

(3) Implementing regulations may be issued already prior to April 1st, 1996 but shall not enter into force before that date.

(4) The Federal Minister of Justice shall be entrusted with the execution of this Federal Law.

Article IV

Empty cassette remuneration

For the period April 1st, 1996 to December 31st, 1997 Art. II, para 1, Z 1 UrhGNov 1980 shall read:

"I. for empty cassettes remuneration (§ § 42 b, 69, 74 and 76 UrhGNov) or"

Article V

Exhibition

2 16 b UrhG in the version of this Federal Law shall also apply to copies in respect of which the right of distribution according to § 16, paras 2 and 3 UrhG expired prior to April 1st, 1996. This shall also apply to the respective validity of the provisions referred to according to § 74, para 7 UrhG in the version of this Federal Law.

Article VI

Cinematographic works

(1) § § 38 and 39 UrhG in the version of this Federal Law shall apply to commercially produced cinematographic works commenced before December 31st, 1995.

(2) § § 38 and 39 UrhG in the version of this Federal Law shall apply to other commercially produced cinematographic works published after December 31st, 1996, provided that the author is entitled to the following share of the legal remuneration claims: for the period January 1st to December 31st the share shall read 3.3 % , for the year 1997 and the following years until the year 2004 the share shall increase by 3.3 % for each year and shall amount to 33 % as from 2005 onwards.

(3) If a film maker or exploitation rightholder entitled to do so according to § 38, para 1 UrhG permits others the use of a cinematographic work against payment for the simultaneous complete and unaltered transmission by means of cable, the author shall be entitled to a share of the remuneration: the amount of the share shall correspond to the amount of the share of the legal remuneration claim according to para 2.

Article VII

Radio broadcast via satellite

The co-producer of a cinematographic work may permit another person the radio broadcast of the cinematographic work via satellite only upon the consent of the co-producer concerned (Z 5), if

1. the cinematographic work was jointly produced by film makers from several countries,
2. at least one co-producer belongs to the Member State of the European Economic Area,
3. the contract on the joint production of the cinematographic work was concluded before April 1st, 1996,
4. the contract explicitly allocates the right to broadcast to certain areas, i.e. for all technical means of the broadcast, and no special regulation is made for broadcasting via satellite, and
5. the broadcast via satellite impairs the exclusive right to broadcast of a co-producer.

Article VIII

Protection periods

(1) This Federal Law shall not apply if already running protection periods would be affected.

(2) In as far as this Federal Law provides for a prolongation of the protection period, it shall apply to copies produced,

recitations and performances given, photos taken and broadcasts effected before April 1st, 1996:

1. for which the protection period has not expired on July 1st, 1995 according to the regulations in force so far, or
2. which are protected in a Member State of the European Economic Area and for which the protection period in this Member State has not expired on July 1st, 1995.

(3) If the author (§ 10, para 2 UrhG) created a utilization right, issued a utilization permission or legally acquired a remuneration claim before April 1st, 1996, this provision shall in the case of any doubt not extend to the prolonged protection period brought about by this Federal Law; anyone having acquired a utilization right or a utilization permission against payment, however, shall remain entitled to the exploitation also during the prolonged period against payment of equitable remuneration. This shall apply mutatis mutandis to dispositions in respect of protection rights at recitations and performances of works of literature or music, photos and radio broadcasts.

(4) In as far as the protection of copies for which the protection period according to the provisions in force so far is revived according to para 2, reproductions started before July 1st, 1995 may be completed also after March 31st, 1996 and such reproductions as well as reproduced pieces already available before July 1st, 1995 be distributed also after March 31st, 1996. This shall apply mutatis mutandis to recitations and performances of works of literature and music, photos and radio broadcasts.

Article IX

Posthumous works

- (1) This Federal Law shall apply to posthumous works,
1. published after June 30th, 1995 in the meaning of § 76 b UrhG in the version of this Federal Law, or
 2. protected as at July 1st, 1995 in a Member State of the European Economic Area in the meaning of § 76 b UrhG in the version of this Federal Law.
- (2) Art. VIII, para 4 shall apply mutatis mutandis also to the protection of posthumous works published before April 1st, 1996 in the meaning of § 76 b UrhG in the version of this Federal Law.