

UNESCO
WORLD ANTI PIRACY OBSERVATORY

SLOVAKIA

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I. Legislation

1. Copyright laws

Copyright is protected in Slovakia through international Agreements, the [Copyright Act of 4 December 2003](#) (OJ (Z. z.) 618/2003), as well as other legislation related to enforcement of copyright or affecting copyright protection.

2. Other laws

- The Criminal Code of 20 May 2005, OJ (Z. z.) 300/2005
- The Criminal Proceeding Code of 24 May 2005, OJ (Z. z.) 301/2005
- The Civil Code of 26 February 1964, OJ (Zb.) 40/1964
- The Civil Proceeding Code of 4 December 1963, OJ (Sb.) 99/1963
- The Commercial Code of 5 November 1991, OJ (Zb.) 513/1991
- The Customs act of 10 March 2004, OJ (Z. z.) 199/2004
- The Act on measures concerning export, import and re-import of goods infringing certain intellectual property rights of 10 March 2004, OJ (Z. z.) 200/2004
- The Administrative Infractions Act of 28 August 1990, OJ (Zb.) 372/1990
- The Act on periodicals and agency news service and the amendment and supplementing of certain acts (Press Act) of 9 April 2008, OJ (Z. z.) 167/2008

3. Latest developments and perspectives

There are no planned amendments to Slovak copyright regulation concerning copyright infringement and anti-piracy issues.

The Act of 10 March 2004, OJ (Z. z.) 200/2004 on measures concerning export, import and re-import of goods infringing certain intellectual property rights is in the legislative process to be amended.

4. Summary of legislation

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

Slovakian Copyright laws provide copyright owners with both exclusive economic and moral rights.

Exclusive rights of the Authors

- **Economic Rights** (article 18 of the Copyright Act)

The author has the right to use his work and to grant authorisation to every use of his work (to grant a licence, see Art 40 of the Copyright Act Licence contract), especially

- to reproduce the work
- to distribute an original work or its copy to the public by sale or other forms of assignment of title
- to distribute an original work or its copy to the public by rental or lending
- to communicate the work to the public
- to alter, translate and adapt the work
- to include the work into a work of collection
- to present the work or exhibit the work to the public

- for public performance of the work

Other persons may use the work without the consent of the author only in cases stipulated in the Copyright Act. The provisions of Copyright Act concerning the author also apply to his heirs, if not their nature indicates otherwise. If the co-author does not have heirs, the author's share shall devolve to other co-authors.

- **Moral Rights** (article 17 of the Copyright Act)

The moral rights of the author are established under article 17 of the Copyright Act.

The author has the right:

- to label his work with his name or pseudonym and to request that his name or pseudonym is given in all reproductions of his work in the proper manner during every use of the work in public, namely according to the manner of use
- not to label his work with his name or pseudonym
- to decide about the release of his work
- to protect against any unauthorised alteration of, or other intervention into his work, and also against any defamatory manipulation with his work, which would result in violation of his dignity and good reputation.

If not ensuing otherwise from the nature of the work or of its utilisation, the author shall have the right of author's supervision (author's alteration) over the manipulation with his work.

In the case of architectural work, the author's supervision is the supervision over the building construction.

The author can not waive his moral rights; these rights are not transferable and shall terminate by the death of the author.

After the death of the author no other person may assume authorship of the work; the work may be used only in a manner which does not depreciate its value and, if the work is not an anonymous work, the name of the author or his pseudonym must be indicated. Protection may be claimed by any of the author's kin, they shall maintain this authorisation even after the passage of the term of economic rights to the work. Such protection may also be claimed by the authors' association, professional chamber and by the relevant collective management organization.

Exclusive Rights of owners of Neighbouring Rights

Holders of rights related to copyright –

- performers – moral rights (Art. 62 of the Copyright Act), economic rights (Art. 63 of the Copyright Act)
- producers of sound recordings – economic rights (Art.64 of the Copyright Act)
- producers of sound and video recordings – economic rights (Art. 66 of the Copyright Act)
- broadcasting organizations- economic rights (Art. 68 of the Copyright Act)

Performers' rights

The performer is a holder of exclusive moral rights and exclusive economic rights. Regarding the moral rights the provisions on author's moral rights shall appropriately be applied to a performing artist and his artistic performance.

According to Article 63 regulating the economic rights, the performing artist has the right to use his artistic performance and to grant his consent to use his artistic performance (to grant a licence, see Art 40 of the Copyright Act Licence contract), by the following use:

- communication to public of unfixed artistic performance; the above shall not apply to communication to the public of broadcasted unfixed artistic performance
- manufacture original recording of artistic performance
- reproduction of artistic performance recording
- public distribution of original recording of artistic performance or its copy by sale or other forms of assignment of title;
- public distribution of original recording of artistic performance or its copy by rental or lending
- disclosure of recording of artistic performance to public

Phonogram producer's rights

According to Article 64 the producer of a phonogram has the right to use his phonogram and to grant the consent to use his phonogram by the following use:

- reproduction of the phonogram
- public distribution of the original phonogram or its reproduction by sale or other forms of assignment of title
- public distribution of the original phonogram or its reproduction by rental or lending,
- broadcasting of phonogram
- making available the phonogram to the public

Audiovisual recording producer's rights

According to Article 66 the audiovisual recording producer has the right to use his audiovisual recording and to grant the consent to use his audiovisual recording by the following use:

- reproduction of the audiovisual recording
- public distribution of the original audiovisual recording or its copy by sale or other forms of assignment of title
- public distribution of the original audiovisual recording or its copy by rental or lending
- public performance of audiovisual recording
- broadcasting of audiovisual recording
- making available the phonogram to the public

Broadcaster's rights

According to Article 68 the broadcaster has the right to use his broadcasting and to grant the consent to use his broadcasting as follows:

- communication to the public of the broadcast, if it is carried out at places accessible to the public against the payment of an entrance fee
- manufacture original recording of the broadcast
- reproduction of the broadcast recording
- public distribution of the original recording of the broadcast or its copy by sale or other forms of assignment of title
- retransmission of the broadcast by cable
- making accessible the recording of the broadcast to the public

- *Exceptions and limitations to copyright / Permitted Acts in relation to copyright works*

Articles 24 to 37 of the Copyright Act allow the free use of copyright protected material without the authorization of the owner of the copyright and the payment of remuneration. The exceptions apply in the following cases:

- Reproduction of a released work (Art. 24 of the Copyright Act)
- Quotation of work (Art. 25 of the Copyright Act)

- Advertising for an exhibition of works of arts or auction of works of arts (Art. 26 of the Copyright Act)
- Use of work located in public areas (Art. 27 of the Copyright Act)
- Use of works for teaching purposes (Art. 28 of the Copyright Act)
- Use of work for the needs of disabled persons (Art. 29 of the Copyright Act)
- Use of work for civil and religious ceremonies, school exhibitions and use of school work (Art. 30 of the Copyright Act)
- Use of work by a library or an archive (Art. 31 of the Copyright Act)
- Transient or incidental making of copies of work (Art. 32 of the Copyright Act)
- Use of work for information purposes (Art. 33 of the Copyright Act)
- Use of the work of a collection (Art. 34 of the Copyright Act)
- Reproduction and modification of computer program (Art. 35 of the Copyright Act)
- Decompilation of a computer program from computer code into the source language of the computer program (Art. 36 of the Copyright Act)
- Public exhibition of work (Art. 37 of the Copyright Act)

Limitations of economic rights of the author are permitted only in special cases stipulated in provisions of Articles 24 to 37; disposal with the work pursuant to these provisions must not conflict with normal exploitation of the work and must not unreasonably prejudice the legitimate interests of author (Article 38 of the Copyright Act).

Limitations to related rights are set forth in Article 69 of the Copyright Act.

Exceptions to Copyright protection are set forth in Article 7(3) of the Copyright Act.

- *Protection of the foreign works* (Art. 2 to 4 of the Copyright Act)

The provisions of the Copyright Act shall apply to:

- a work of an author who is a citizen of the Slovak Republic or has permanent residence in its territory
- a work released in the Slovak Republic irrespective of nationality or permanent residence of its author
- a work protected in the Slovak Republic pursuant to international treaties or agreements, by which the Slovak Republic is bound and which were promulgated in a manner stipulated in a special law.
- a work of visual arts of an author, who is not a citizen of the Slovak Republic, provisions of the Copyright Act on resale right remuneration shall apply exclusively if mutuality on the basis of international treaties or agreements by which the Slovak Republic is bound and which were promulgated in a manner stipulated in a special law, is ensured.
- an artistic performance of an artistic performer, who
 - a) is a citizen of the Slovak Republic;
 - b) is not a citizen of the Slovak Republic, if
 - the artistic performance was performed in the territory of the Slovak Republic;
 - the artistic performance forms a part of the phonogram protected pursuant to this Act, or
 - the artistic performance was not fixed as a phonogram, but it was communicated to the public by broadcasting that is protected pursuant to this Act.
- a phonogram and an audiovisual recording

- a) of a producer of phonograms and an audiovisual recording producer who is a citizen of the Slovak Republic or who has permanent residence or registered office in its territory;
 - b) fixed in the Slovak Republic, or
 - c) released in the Slovak Republic.
 - broadcasting
 - a) of a broadcaster, if he has its permanent residence or registered office in the territory of the Slovak Republic, or
 - b) carried out by a broadcaster from a place in the territory of the Slovak Republic.
 - a publisher of a work not released in the past, who is a citizen of the Slovak Republic or who has permanent residence or registered office in its territory;
 - an artistic performer, a producer of phonograms, an audiovisual recording producer, a broadcaster or a publisher of a work not released in the past, which is protected according to international treaties or agreements by which the Slovak Republic is bound, and if such treaties and agreements do not exist, if mutuality is ensured,
 - a maker of a database, who is a citizen of the Slovak Republic or who has permanent residence or registered office in its territory.
- *Period of copyright protection*

Regarding the copyright protection in the Slovak Republic the moral rights terminate by the death of the author and the economic rights shall last for the life of the author and for 70 years after his death. (Art. 17 and 21 of the Copyright Act)

Articles 21 and 22 of the Copyright Act provides for the term of economic rights of all categories of works.

The term of protection of related rights is provided under Articles 63, 64, 66, 68 and 70 of the Copyright Act.

The author cannot waive his moral rights; these rights are not transferable and shall terminate by the death of the author.

After the death of the author no other person may assume authorship of the work; the work may be used only in a manner which does not depreciate its value and, if the work is not an anonymous work, the name of the author or his pseudonym must be indicated. Protection may be claimed by any of the author's kin, they shall maintain this authorisation even after the passage of the term of economic rights to the work. Such protection may also be claimed by the authors' association, professional chamber and by the relevant collective management organization.

- *Registration*

Copyright protection does not depend on formalities. The copyright in a work shall commence at the moment when the work is expressed in any objectively perceivable form, regardless of its format, contents, quality, purpose or form of its expression (Article 15 of the Copyright Act).

5. International treaties

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

- [Berne Convention on the Protection of Literary and Artistic Works](#), in force since January 1, 1993.
- [Universal Copyright Convention](#), notification on March 31, 1993 to UCC of 1952 and 1971.
- [Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations](#), in force since January 1, 1993.
- [WTO Agreement on Trade Related Aspects of Intellectual Property Rights](#) (TRIPS), since January 1, 1995.
- [WIPO Copyright Treaty](#) (WCT), in force since March 6, 2002.
- [WIPO Performances and Phonograms Treaty](#) (WPPT), in force since May 20, 2002.
- [Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms](#), in force since January 1, 1993.
- Cyber Crime Convention, in force since May 1, 2008.

In addition on 12 December 2007 the Slovak Republic has ratified the Convention on computer criminality (OJ (Z. z.) 137/2008).

II. Measures and remedies

1. Copyright infringement

There is no definition of the copyright infringement in the Slovak legal regulation, neither there are any specific provisions concerning Internet copyright infringement (Internet piracy). However, a definition of copyright infringement may be deduced from the provisions of Articles 59 to 61 of the Copyright Act.

2. Remedies to protect copyright holders

Legal proceedings:

- civil proceedings (Art. 56 of the Copyright Act, Art. 442a, Art. 458a of the Civil Code, Art. 75 et seq., Art. 78b-78h of the Civil Proceeding Code)
- criminal proceedings (Art. 283 of the Criminal Code, Criminal Proceeding Code)
- administrative proceedings (Art. 32 of the Administrative Infractions Act, Act on measures concerning export, import and re-import of goods infringing certain intellectual property rights)

According to Article 56 (1) of the copyright Act the author whose rights were infringed unlawfully or are in jeopardy to be infringed unlawfully, may especially request

- a) the determination of his authorship,
- b) prohibiting jeopardising of his rights including the prohibiting to repeat such jeopardising, namely including against a person who indirectly participated in jeopardising these rights;
- c) prohibiting unlawful infringement of his rights, namely including against a person who indirectly participated in jeopardising of these rights including prohibition pursuant to Art. 59 and

60 of the Copyright Act;

d) to be given information regarding the origin of the copy of work or counterfeit of work, about the manner and scope of its use and about services infringing the copyrights, including

1. data about the owner, publisher, manufacturer, distributor, supplier or seller of such a copy of work or counterfeit of work or about the provider of services;
2. data about the issued, produced, delivered, provided, accepted or ordered amount or the price of such a copy of work, counterfeit of work or service;

e) removal of consequences resulting from the infringement of the right, at the cost of the person who unlawfully infringed or jeopardized with unlawful infringement, namely

1. by destruction of unlawfully manufactured copy of work or counterfeit of work, by its withdrawal from circulation or from other form of use, or
2. by destruction of material, tools and aids pursuant to Art. 59 and 60 of the Copyright Act used for carrying out the unlawful infringement or jeopardy of unlawful infringement, by their withdrawal from circulation or from other form of use;

f) compensation of loss pursuant to special regulations.

3. Provisional measures

- *Provisional Measure inaudita altera parte*

According to Article 75 (7) and Article 78d (1) of the Civil Proceeding Code, the court may adopt the provisional measures inaudita altera parte.

- *Seizure, Confiscation, Forfeiture and/ or the destruction of all infringing copies and all equipments or devices*

According to Article 56 (1) e) of the Copyright Act and Article 32 Criminal Code, the court may order the seizure, confiscation, forfeiture and/ or the destruction of all infringing copies and all equipments or devices used in the manufacture of the infringing copies.

Article 78b of the Civil Proceeding Code on the confiscation and seizure of evidence regarding matters concerning the intellectual property right states that prior the commencement of a proceeding in the matter itself, at the proposal of the person whose intellectual property rights were infringed or jeopardized, or of the person who proved infringement or jeopardize of intellectual property rights, for the purpose of submitting evidence, it is possible to confiscate and seize

- a) goods or samples of goods through which the intellectual property rights are infringed or jeopardized,
- b) material and tools used for the production or distribution of goods specified in letter a), or
- c) documentation related to the goods specified in letter a)

If so justified by circumstances of the case, the court shall impose a duty in the form of a resolution on the petitioner to deposit a security designated for securing the compensation of loss that would arise in connection with confiscation and seizure of evidence. The amount of the security and the time limit during which it shall be deposited shall be determined by the court according to conditions of the particular case, especially depending on the manner of confiscation and seizure of the evidence, the character and the extent of confiscation and seizure of the evidence. If the proposal was submitted by more petitioners, they are obliged to deposit the security jointly and severally (Art. 78c (1) of the Civil Proceeding Code).

- *Injunction*

According to Article 75 (8) of the Civil Proceeding Code the petitioner of preliminary injunction pursuant to Article 76 (1) h) may propose that the person who is violating or jeopardizing the intellectual property right, can, instead of abstaining from such conduct, place a security deposit in the custody of the court designated for the compensation of a detriment arisen due to violation or jeopardizing the intellectual property right.

According to Article 76 (1)(h) of the Civil Proceeding Code the court may impose to the party by the preliminary injunction to abstain from conduct by which he violates or jeopardizes the intellectual property right.

4. Penalties for copyright infringement

The general rule is as follows:

- In civil cases
 - compensation of loss pursuant to special regulations (Article 415 et. seq. of the Civil Code; Art. 56 (1) f of the Copyright Act)
 - publication of the judgment in newspapers or professional magazines (Art. 155 of the Civil Proceeding Code)
 - damages to compensate injury suffered including appropriate attorney's fees and profits of which the copyright holder has been deprived (Art. 56(1)f of the Copyright Act, Art. 415-459 et. Seq. of the Civil Code, Art. 142 et seq. of the Civil Proceeding Code)

- For criminal offence in copyright cases
 - imprisonment – up to 8 years (Art. 283 of the Criminal Code)
 - monetary fines
 - home confinement
 - community service
 - criminal forfeiture etc. (Art. 32 of the Criminal Code)
 - seizure, confiscation, forfeiture and/ or destruction of all infringing copies and all equipments or devices used in the manufacture of the infringing copies (Art. 56 (1) e) of the Copyright Act, Art. 32 of the Criminal Code)

5. Requirements for foreign persons

The foreign persons do not require to obtain any special approvals or to present any special documentation to gain access to national courts, customs officials or police officials; the only condition is to act in the official language (or to ensure the official translation, see e. g. Art. 32 Customs act); within the civil proceedings the parties have the right to act in the native language or in the language, to which they understand (cf. Art. 18 Civil Proceeding Code).

III. Enforcement

1. Enforcement authorities

a) Authorities responsible for enforcing the copyright law

- National Courts (district courts, county courts, Supreme Court)
- Act on Courts of 9 December 2004 on courts and on amendment and supplementing of some acts, OJ (Z. z. 757/2004), as amended; see Act on seats of courts and on districts of courts of the Slovak Republic and on the amendment of the Civil Proceeding Code, OJ (Z. z. 371/2004), as amended
- Customs officials
- Act on measures concerning export, import and re-import of goods infringing certain intellectual property rights, see Customs Act
- Police officials
- Act on police forces of 6 July 1993, OJ (171/1993), as amended
- District authorities
- Administrative Infractions Act

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

The enforcement bodies are entitled to act ex-officio in copyright infringement cases except in cases related to civil procedure.

c) Courts dealing with copyright cases

There are specialized courts for copyright cases in the Slovak Republic. The Supreme Court and all the general courts deal with copyright cases (including civil remedies and criminal offences).

The names and location (including relevant contact data) of all courts are available on the website of the Ministry of Justice of the Slovak Republic:

<http://www.justice.gov.sk/h.aspx?pg=lb2&uc=ps/adsuc>

2. Enforcement at the border

The competent authorities responsible for administering applications for copyright infringements at borders are the Customs Directorate of the Slovak Republic.

They do not impose any security/ equivalent assurance to protect the defendant and prevent abuse (only declaration according to Art. 6 of the Customs Regulation 1383/2003/ES).

The importer and the copyright holder are notified immediately of the suspension of the release of the goods by the customs.

There is a time limit for the suspension of the goods by customs authorities. All time limits are in accordance with the Customs Regulation 1383/2003/ES

The competent authorities may order the destruction or disposal of infringing goods under the condition of Art. 10 Act on measures concerning export, import and re-import of goods infringing certain intellectual property rights.

The customs authorities are entitled to act ex-officio in copyright infringement cases (see the Customs Regulation 1383/2003/ES).

The law provides for a de minimis import exception (such as the import for personal use of a non-commercial quantity and new items acquired for personal use) (see the Customs Regulation 1383/2003/ES).

Article 58 of the Copyright Act allows right holders to require from customs authorities information and to inspect customs documents relating to pirated goods.

IV. Public Awareness

1. Awareness campaigns and actions

Organization of public awareness campaigns by public authorities or civil society against piracy and counterfeit: Project of the Ministry of Culture of the Slovak Republic: Enforcement of Intellectual Property Law. 2008)

2. Promotion of legal exploitation

3. Associations and organizations with awareness-raising purpose

4. Best practices

V. Capacity-building

1. Training

Specialized copyright enforcement and anti-piracy training, including by training institutions of Ministry of Justice, Ministry of Interior or other relevant authorities:

- see the Customs Regulation 1383/2003/ES
- Project of the Ministry of Culture of the Slovak Republic (Enforcement of Intellectual Property Law, 2008)

2. Establishment of specialized units and intersectoral groups

3. Best practices

In the year 2008 the Ministry of Culture of the Slovak Republic in co-operation with the Industrial Property Office of the Slovak Republic and with support of other institutions (Ministry of Finance of the Slovak Republic, Ministry of Interior of the Slovak Republic, Customs office, Government Office etc.) realized the project called Enforcement of Intellectual Property Rights. The project was aimed at the creation of the information system including decisions, legislation and literature from the field of the intellectual property (new free-access web-site: www.dusevnevlastnictvo.gov.sk). Within the project the cycles of trainings for public and judicial administration on enforcement of IP rights were provided.

VI. Other

1. TPM/DRM

According to Article 59 of the Copyright Act, the copyright shall also be infringed by whoever, for the purpose of achieving property benefit by rendering services or by other manner, who develops, produces, offers for sale, rental or lending, imports, distributes or utilizes tools exclusively or partially designed for the removal, deactivation or limitation of the function of any technical device or of technological measure designated for the protection of rights pursuant to the Copyright Act.

Technological measure shall mean any procedure, product or component integrated into a procedure, product or device designed to avoid, limit or prevent infringement of copyright in a work.

2. Licensing Schemes

3. Optical Discs

4. Hotlines

Creation of the new website supporting enforcement of intellectual property
www.dusevnevlastnictvo.gov.sk

5. Contact Details

GOVERNMENT

Ministry of Culture of the Slovak Republic
Media, Audiovisual and Copyright Department
Address: Nám. SNP 33, 813 31 - Bratislava
Tel: +421 2 20482 122
Fax: + 421 2 20482 174
Website: www.culture.gov.sk

Ministry of Finance of the Slovak Republic
Tax and Customs Department
Address: Štefanovičova 5, P. O. BOX 82, 817 82 - Bratislava

Tel: +421 2 5958 1111
Fax: +421 2 5958 3048
Website: www.finance.gov.sk

Ministry of Interior of the Slovak Republic
Address: Pribinova 2, 812 72 - Bratislava
Tel: +421 2 5094 1111
Fax: +421 2 5094 4397
Website: www.minv.sk

Ministry of Justice of the Slovak Republic
Address: Župné námestie 13, 813 11 - Bratislava
Tel: +421 2 59353 111
Website: www.justice.gov.sk

CUSTOMS

Customs Directorate of the Slovak Republic
Address: Mierová 23, 815 11 - Bratislava
Tel: +421 2 4827 3111, 4333 7580, 4333 7100
Fax: +421 2 4333 5282, 4333 6029
Website: www.colnasprava.sk

Customs Office Bratislava
Address: Miletičová 42, 824 59 Bratislava 26
Tel: +421 2 50263 990, 991
Fax: +421 2 55423 130
Website: www.colnica.sk

COLLECTIVE MANAGEMENT ORGANIZATION

SOZA, Slovak Performing and Mechanical Rights Society
Address: Rastislavova 3, 821 08 Bratislava 2
Tel: +421 2 5020 2707
Fax: +421 2 5556 9409
Website: www.soza.sk

LITA, Society of Authors
Mozartova 9, P.O.BOX 28, 810 01 Bratislava 11
Tel: +421 2 6720 9301
Fax: +421 2 6280 2246
Website: www.lita.sk

BSA, Business Software Alliance Slovakia
Website: <http://w3.bsa.org/slovakia/>