

Government Decree 117/2004. (IV. 28.) Korm.

on the determination of the manner and conditions of the communication and making available to the public in the case of free use provided for in Article 38(5) of Act LXXVI of 1999 on Copyright

By virtue of the authorization under Article 112(3)) of Act LXXVI of 1999 on Copyright (hereinafter: "Copyright Act"), the Government orders as follows:

Art. 1. For the purposes of this Decree:

a) beneficiary establishment: establishment referred to in Article 38(5) of the Copyright Act;

b) user: to whom the work forming part of the collection of the beneficiary establishment is displayed or communicated (is made available), in compliance with Article 38(5) of the Copyright Act, for the purposes of research or private study.

Art. 2. (1) The beneficiary establishment may use the work freely under Article 38(5) of the Copyright Act if

a) it applies a safe technical solution, which hinders the modification and reproduction (fixation on any carrier) of the elements made available of its collection as well as their communication outside the circle of persons defined as users, including the making available to the public;

b) it provides information that the work made available can only be used for the purposes of research or private study referred to in Article 38(5) of the Copyright Act.

(2) A further condition of the application of Article 38(5) of the Copyright Act is that in its regulations the beneficiary establishment should define for the users, in compliance with the provisions of this Decree, the order of access to computer terminals. In the regulations, the user's statement should be required, as a precondition of access, that he will use the computer terminals for the purposes of research and private study referred to in Article 38(5) of the Copyright Act.

Art. 3. (1) In order to be accessible on the basis of free use defined in Article 38(5) of the Copyright Act, the collection of the beneficiary establishment may be freely interconnected with the collection of any other beneficiary establishment (connection into a dedicated network). For the user the collection of the beneficiary establishment may be communicated to the public through a computer terminal set up in another, interconnected beneficiary establishment.

(2) Paragraph (1) may be applied on condition that

a) connection of the collections of beneficiary establishments in a dedicated network is based on a safe technical solution that prevents any person from accessing the collections apart from the users of the collections of beneficiary establishments;

b) each beneficiary establishment connected into the dedicated network meets the requirements referred to in Article 2(1).

(3) For the purposes of Article 2(1)(a) and Article 3(2)(a), a technical solution shall be regarded as safe, which meets the requirements necessary for the issue of the information security certificate laid down by special law.

Art. 4. This Decree shall enter into force on the day of the entry into force of the Act promulgating the international treaty on the accession of the Republic of Hungary to the European Union.