

SOCIETY ARTISJUS HUNGARIAN BUREAU FOR THE PROTECTION OF AUTHORS’
RIGHTS
BUSINESS REPORT
ON THE YEAR ENDING ON 31 DECEMBER 2020

(all balances are indicated in thousand HUF unless otherwise specified)

1. The operational environment of Artisjus in 2020

1.1 The general impacts of the pandemic

The year 2020 can be divided into two distinct parts: during the first two and a half months of the year, Artisjus was able to work under the usual market and regulatory conditions, while the rest of the year was marked by the domestic spread of the pandemic caused by the COVID-19 virus. Music industry, the broader operational environment of Artisjus, was one of the most affected sectors of the economy. Within that, the appearance of the virus, as well as the governmental measures introduced in its wake, led to the immediate and complete shutdown of the live music sector. According to a study¹ commissioned by Music Hungary Association and carried out by Hétfa Research Institute, 70% of the events were cancelled in the live music sector throughout the year, which had been forecast to attain a total of 40 billion forints in 2020. Naturally, this was a substantial blow for the live music revenues of Artisjus and the right holders represented by us. Due to the extraordinary measures, the complete or partial shutdown and closure of the catering and accommodation industries for numerous months caused an immense loss in terms of collectible music royalties in 2020.

The coronavirus produced similar effects in collective musical rights management all over the world: according to the report² of the International Confederation of Societies of Authors and Composers (CISAC), the pandemic and the related restrictions caused a 20–35% drop in revenues on average.

Governmental funds to compensate for or mitigate the negative effects of the pandemic on right holders directly represented by Artisjus were not available in 2020.

1.2 The operation of the work organization

In consideration of the state of danger announced in mid-March 2020, the work organization of Artisjus successfully shifted to home office in a matter of 3-4 workdays (after a brief trial period), except for those positions where working from the office was indispensable (e.g. the mailing/document handling department, issuing blank carrier stickers). Our experience with home office has been, in fact, quite positive: after having tackled some initial technological challenges, we saw that the workflow became reliable, manageable and controllable, and that the staff worked with dedication. At the same time, the forced loss of tasks in certain areas (live music, catering, commercial and public use of music in places of accommodation) and responsible cost management led to the rescheduling of some jobs and to measures limiting working hours.

1.3 Legal environment

From the transformation of the regulatory environment, we must highlight law-making (by decrees throughout the state of danger) in relation to the pandemic, which has elevated the task of monitoring domestic legislation to a very high level. The state of danger, which was declared by the government in consideration of the coronavirus epidemic – which primarily lasted from 11 March to 18 June 2020

¹ https://musichungary.hu/wp-content/uploads/2020/09/covid-19-elozene_HETFFA_0402_v2.pdf

² <https://www.cisac.org/Newsroom/news-releases/global-creators-royalties-expected-decline-eu35-billion-2020>

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during the first wave of the epidemic, later on from 4 November 2020 to 8 February 2021, then until 23 February, and which was extended till 23 May 2021 by the legislature – introduced a special legal regime. In both cases, governance by means of decrees implemented with the authorisation and approval of the National Assembly beyond the 15 days provided for in the Fundamental Law resulted in a tsunami of new legislation.

The EU legal framework (DSM strategy) was completed. On multiple occasions, we gave our opinion on the draft transpositions of the directives (the so-called DSM and Broadcasting), both in the framework of ProArt and separately. Legislation related to the state of danger eventually pre-empted the transposition of the directives, and the latter did not materialize in 2020.

In response to the state of danger, the legislator extended the free use of materials for educational purposes to include distance learning, first by decree and then by integrating it into the Act on Copyright (Szjt.).

1.4 Evolution of our relations with authorities

The usual comprehensive supervisory audit was carried out by the Hungarian Intellectual Property Office (HIPO) in 2020 as well: it examined the operation of the Society with respect to its compliance with the rules on authors' rights. In this context, Artisjus was requested to answer one question, pertaining to the calculation of the supervisory fee. The procedure was closed by mid-February without any infringement established, or any other substantive conclusion drawn or measure taken.

In 2020, pursuant to an author's individual complaint regarding the distribution and payment of royalties, we were contacted by the supervising authority, and Artisjus was requested to provide information on the matter. The supervisory authority accepted the meticulously elaborated information material by Artisjus, supplied with the relevant justifications and appendices underpinning the latter. As it found no such conditions that would have implied an infringement of the law on the collective administration of rights, no supervisory procedure was instituted concerning the subject matter of the complaint.

The follow-up proceedings launched in 2018 in connection with the competition procedure brought against Artisjus at the beginning of 2014 (concerning the establishment of blank carrier fees), already mentioned in our previous Business Reports, was still in progress in 2020. The Hungarian Competition Authority (GVH) issued a preliminary position rejecting all of Artisjus' defences on the substance, and envisaging to impose a competition fine of approximately 310 million HUF on Artisjus. At the time of the drafting of this report (23 April 2021), the GVH had not yet adopted a decision.

Artisjus submitted its tariff charts for 2020 for approval in due time, by 1 September 2020. In consideration of the current situation, we did not propose any changes in the tariffs. We harmonised and clarified the provisions in the tariff charts requiring various data to be provided, and amended the discount scheme for public performance tariffs. In tariff chart I, we incorporated a new provision with a special focus on the collection of fees after podcasts.

1.5 Important litigations

Applicants Gyula Balogh et al. filed a petition for review to the Curia in late 2019 in a dispute that had been ongoing since 2017. Antecedents: Applicants Gyula Balogh et al. brought an action before the

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Budapest–Capital Regional Court against Artisjus for a declaration of the obligation to account, as Artisjus had not distributed to the applicants the royalties for blank carrier and machine music, given that the publishers representing the applicants had not fulfilled the conditions of providing data under the Distribution Regulation, i.e. they could not prove the commercialisation of the applicants' publications. The action of the applicants was dismissed by the Budapest–Capital Regional Court, and the final judgement of the Budapest–Capital Court of Appeal upheld the judgement of the Budapest–Capital Regional Court on appeal by the applicants.

In its June 2020 judgement, the Curia dismissed the applicants' application for review in its entirety, concluding that the final judgement did not violate the provisions of either Articles I(3) and XIII of the Fundamental Law (i.e. the constitutional protection of the applicants' intellectual property rights was not infringed) or those of the Act on Copyright and the Civil Code cited by the applicants, and that Artisjus did not infringe the requirement of equal treatment, obligatory for collective management organizations under Article 6(1) of the Act on the Collective Administration of Copyright (Kjkt.). This brought to an end a dispute that had been dragging on since 2017, and a landmark decision was adopted in favour of Artisjus. In accordance with the above, in order for Artisjus to be able to distribute the said royalties, publishers must prove in their data submissions that the publications have been commercially distributed on a sound carrier in the number of copies they have indicated and that they can thus be considered a source of private copying (it is not sufficient to prove that the publications have been passed on to a business partner by means of a single bulk sale).

At the beginning of 2019, CloudCasting Ltd. filed a case against Artisjus in the subject matter of the payment of public performance royalties. As an immediate antecedent to the lawsuit, in 2018, CloudCasting Ltd. sent royalty payment requests with reference to the computers and other devices suitable for the public performance of musical works located at the Artisjus headquarters. CloudCasting Ltd. based its claims on the so-called "televisual presumption", i.e. the decades-long judicial practice established in connection with the collective management of musical rights. In order to avoid the litigation, Artisjus paid the royalties while maintaining its position that it had not exploited the musical repertoire managed by CloudCasting Ltd. when using the devices in its possession. In consideration of the fact that in 2018 CloudCasting Ltd. claimed royalties from businesses involved in providing accommodation, with reference to the "televisual presumption", Artisjus lodged a complaint with HIPO against CloudCasting Ltd. and objected to this practice, and it also refused to pay the subsequent royalty requests received from CloudCasting Ltd. Although during the proceedings, HIPO did not condemn CloudCasting Ltd., registered as an independent collective management organization, in providing the reasons for its decision, the authority adopted a position identical to an earlier statement issued by the Expert Body on Authors' Rights: namely that although an independent collective management organization may refer to presumed exploitation, it must prove in case of a dispute – contrary to representative collective management organizations that are entitled to represent the world repertoire – that the exploitation affected the repertoire in its own management. The Budapest–Capital Regional Court dismissed the actions entirely due to lack of locus standi, and this decision was also upheld by the Budapest–Capital Regional Court of Appeal, proceeding on the appeal of CloudCasting Ltd. Therefore the success of Artisjus is final. The reasons provided for the judgements stated that the substantive law provisions of the Act on the Collective Administration of Copyright (Kjkt.) do not apply to independent rights management organizations, and that they cannot successfully refer to the so-called "televisual presumption", which is tightly related to the legal provisions of the Kjkt. facilitating the collective management of authors' rights. CloudCasting Ltd. filed an application for review of the final judgement with the Curia, which denied review in its order of 6 May 2020. The rules of the new Code of Civil Procedure have significantly modified and tightened the conditions for the admissibility of the review procedure, which previously functioned as a quasi-third-tier appeal forum. In its application, CloudCasting argued in the context of admissibility

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that the examination of the infringement of the law on the merits and, consequently, the review of the final judgement was justified by the social importance of the legal issue raised. The Curia found that the applicant CloudCasting had not substantiated the social importance of the legal issue raised, and that there was therefore no justification for further examination of the application.

2. Royalty collection and administrative costs in 2020

In the year 2020, the total amount of royalties collected by Artisjus was 18,813,787 thousand HUF, which constituted a mere 80.4% of the reference value of 2019.

Royalty collection and administrative costs			
	2019 thousand HUF	2020 thousand HUF	%
Public performance royalties	6,073,026	4,103,429	67.6
Revenue from broadcasting and cable television royalties	6,119,981	5,522,369	90.2
<i>from which cable television revenue</i>	<i>2,564,619</i>	<i>2,460,841</i>	<i>96</i>
Royalties on blank carriers	9,786,527	7,653,798	78.2
Royalties on mechanical and canned music	153,634	112,673	73.3
Royalties on online activities	338,319	405,273	119.8
Royalties on reprography	6,151	6,169	100.3
Royalties on foreign broadcasting organizations	552,957	630,846	114.1
Royalties from abroad	374,190	379,230	101.3
Total:	23,404,785	18,813,787	80.4%

It should be added that the 2019 base was increased by two items totalling more than one billion forints, which were larger payments for previous years. If we adjust the above figures for these, the actual drop in Artisjus' revenue amounts to 15.7%.

Within that, the rate of the royalties collected on behalf of right holders represented directly by Artisjus, on that of Hungarian collective management organizations representing other right holders and of foreign television channels represented by Artisjus was the following:

The rate of the royalties collected on behalf of right holders represented directly by Artisjus, on that of Hungarian collective management organizations representing other right holders and of foreign television channels represented by Artisjus				
	2019 (thousand HUF)	%	2020 (thousand HUF)	%
Those represented by ARTISJUS	14,749,073	63.02	11,468,093	60.96
Those represented by HUNGART, FILMJUS, EJI and MAHASZ	8,102,755	34.62	6,714,848	35.69
Foreign broadcasting organizations	552,957	2.36	630,846	3.35

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Total	23,404,785	100.00	18,813,787	100.00
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The fulfilment of the Business Plan of Artisjus for 2020 became impossible due to an external, objective reason: the market collapse caused by the domestic spread of the COVID-19 pandemic and the restrictive measures taken to restrain the pandemic.

2.1 Live and canned music public performance market

The public performance market is the sector the most exposed to the coronavirus among the sources of revenue of Artisjus.

Up until 16 March 2020, the public performance collection was running at good market conditions and with a high payment morale, and we had every hope of exceeding the annual business plan if continuing at that pace. In the period following the declaration of the state of danger, at first, public music use seemed to cease completely, with the exception of commercial units, more specifically grocery and convenience stores. Although the possibilities for the public consumption of music were undoubtedly reduced, users tried to adapt their business to the situation. Artisjus also had to develop a collection strategy that supported the maximum possible collection of royalties, while also preserving the image and reputation of Artisjus. After the first wave, when the restrictions were lifted, careful and well-considered decisions had to be taken as to how to continue our core business, from conducting on-site inspections through sending out quarterly royalties requests to launching enforcement actions.

The uncertainty during the year is well-illustrated by the fact that, at the time of the opening following the first wave, there was reason to believe that at least the August festivals and major concerts would not be affected by the epidemic – but this turned out to be wishful thinking.

In 2020, public performance royalty revenues in total attained only 67.6% of the base year. Behind this result are a number of “damage-repair” measures, such as a higher than usual number of retrospective detections and invoicing of past events instead of impossible on-site inspections during the lockdown.

2.2 Broadcasting and cable television market

In 2020, the sum of royalties collected from radio and television broadcasting as well as from cable televisions amounted to 90.2% of the base year. Note that since the TV2 Group paid the arrears of royalties for 2017 and 2018 at the beginning of 2019, these contribute to the high base figure. Adjusted for this item, our media revenue was essentially at the 2019 level. The economic impact of the pandemic was not yet reflected in the performance of the broadcasting market. Thanks to cost reductions introduced in the wake of the pandemic, we continued our media market audit activities this year, albeit on a smaller scale.

On the cable television market, the main event was the UPC–Vodafone transaction, which did not cause any disruption in Artisjus’ rights collection activities. In 2020, we increased the discount by the planned 2.5% to 30% for cable operators that are members of the Hungarian Cable Communications Association.

2.3 Private copying fees

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Private copying fees collected by Artisjus in 2020 were at 78.2% of the 2019 revenues. A significant retroactive royalty payment in 2019 is responsible for part of the decrease, which cleans up the data to approximately 83% of the royalties collected compared to the previous year. The epidemic had a significant impact on turnover in the first half of the year in particular, with a substantial decline (more than 27%) in mobile phone royalty income. The years-long trend of declining demand for traditional devices (memory cards, flash drives, external HDDs) accelerated. In the second half of the year, revenues rebounded significantly, despite a radical drop in royalty payments on Huawei mobile phones, which had been hit by international sanctions. (Huawei devices were not allowed to use the Android mobile operating system and applications. As a result, customers turned away from the well-established brand.)

The decline was somewhat offset by the inclusion of personal computers in the royalty-bearing circle. Despite the pandemic, controlling activity in the private copying area continued to be effective in 2020. With the exception of in-store inspections, infringement and criminal cases handled in cooperation with the authorities and ProArt, continuous monitoring activities linked to purchased market research, royalty collections from used mobile phone companies continued to be carried out effectively during the initial two-month period of the epidemic. In line with the PC roll-out, we spot-checked the application of free labels given to stock opening on 1 January 2020 in warehouses, and we repeatedly called attention to the details of the regulations. Correct label use continued to be checked in the second half of the year as well.

2.4 The (offline mechanical) market of the collection of rights on sound recordings

The mechanical area suffered a 26.7% decline in the first year of the pandemic compared to 2019. Despite the pandemic situation, publishers with BIEM-IFPI contracts increased their share compared to independent publishers, presumably due to their greater economic stability, but their overall revenues were, of course, lower than in previous years. With the exception of a few independent publishers, the market was characterised by subdued production throughout the year. Due to the economic difficulties, we received indications from several publishers that they intended to overcome the crisis either by closing down their activities, or by selling their companies.

A major change in terms of media is that the boom in vinyl releases last year clearly waned, with circulation falling back to levels seen in previous years. Once again, CD releases account for more than 90 per cent of all recorded music releases.

2.5 Online music market

In 2020, our revenue from online usage reached 119.8% of our revenue base in 2019 (the latter had grown by 40.9% compared to 2018). This is partly due to IT improvements (implementation of a new traffic processing system) and partly to the increase in online consumption due to the lockdowns. One of the main challenges in the online field is the increasing number of international content providers and platforms that only want to contract repertoires with filming rights (it is for this reason that we were unable to reach an agreement with Facebook, for example). Artisjus does not represent this right; in the Hungarian music market, this licensing is traditionally done by the right holders themselves or through a contracted music publisher in individual rights management. In the future, consideration should be given to attempting to start collective rights management in this area on a voluntary basis. Streaming, including audiovisual (VOD) content, continues to be a dominant part of our online revenues. The share of download services is negligible.

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In 2020, we developed a separate tariff for podcasts to cover this steadily growing mode of consumption. Royalties collection will start on this basis in 2021.

2.6 Administrative costs

In the year 2020, the administrative costs deducted by Artisjus effectively for its operation (i.e. excluding the obligatory payment of social contribution after copyright) amounted to 19.29 per cent.

Total administrative costs: Indicators of administrative cost effectively deducted for operation			
	2019 (thousand HUF)	2020 (thousand HUF)	%
1 Net sales revenue:	23,310,356	19,121,170	82
2 Accrued administrative costs of the distribution of royalties for the year following the target year	1,143,225	860,304	75
3 Administrative costs for the target year	3,888,329	3,120,307	80
4 Administrative costs of the distribution of royalties collected in the year prior to the target year	1,005,019	1,143,225	114
5 Revenue from miscellaneous sales	43,778	24,462	
(3+4) 6 Total administrative costs	4,893,348	4,263,532	87
(1+2-4-5) 7 Adjusted net sales revenue	23,404,784	18,813,787	80
8 Authors' social contribution tax (SZOCHO)	698,171	635,128	91
(6-8) 9 Operational administrative costs	4,195,177	3,628,404	86
(6/1) 10 Total administrative costs in proportion to net sales revenue	20.99%	22.30%	
(9/7) 11 Operational administrative costs in proportion to corrected sales revenue	17.92%	19.29%	

The ratio of the amount collected and the amount effectively spent on the operation of Artisjus is shown by the so-called **actual operating expenditure**, calculated with the methodology prescribed by HIPO. Its rate was **18.93%** for the year 2020. (This figure also includes the provision for a potential fine of 310 million HUF by the GVH, as indicated above.)

In this exceptional year of 2020 (lower revenue, provisioning for GVH fine), the operations of Artisjus were once again financed by management fees deducted for operations, other revenues and revenues from financial operations.

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In addition, the Association supplemented the distribution funds with the proceeds of its total financial operations of 102,802 thousand HUF in 2020, the operating result of its business activities, i.e. 17,390 thousand HUF, and by an additional 185,503 thousand HUF from the result of the year under review.

Behind these figures are a number of measures reducing the operating costs of Artisjus in 2020:

- a significant reduction in the cost of fixed assets, investments and developments;
- a significant reduction in wage costs (redundancies, unpaid leave, reduced working hours).

3. Relations with members and right holders, communication

3.1 Renewal of offices

As a result of the 2019 renewal of offices, the new General Assembly elected the new members of the Executive Board on 7 January 2020, and the newly elected Executive Board elected Iván Madarász as President of the Association for 2 years at its inaugural meeting held on the same day.

3.2 Membership data

At the end of 2020, the number of society members entrusting Artisjus with the collective administration of their rights amounted to 2,162. At the same time, the number of non-society members (copyright holders) entrusting Artisjus with the collective administration of their rights was 21,770. In 2020, the number of the registered users of the Artisjus Authors' Information System (AIS) attained almost 16.000.

3.3 Communication of Artisjus in 2020

Thanks to the yearly schedule, the usual major live events of Artisjus could take place before the pandemic hit.

Songwriting camp: Artisjus' first own "songwriting camp" attracted participants from 9 countries. One day was dedicated to applied songwriting, with the RTL Klub producer asking the participating songwriters to write an alternative musical theme for the TV series titled "Mellékhatás" ("Side Effect"). The RTL collaboration also helped communication.

Songwriter Expo: for the first time in its history, the event had a focus theme: film music. The BLEND programme brought together film composers and film producers. Friedemann Findeisen, among others, was able to travel here before the lockdown to give his highly successful lecture on holistic songwriting and to hold a workshop for those interested.

However, the pandemic also disrupted many of our plans in the field of communication. This was to be the year when user communication, including the *Zenével jobb!* (Better with Music!) programme, was supposed to really come alive after the soft launch – it was no coincidence that we chose catering and background machine music as our focus for the annual press conference in February. The epidemiological situation rewrote much of this – partly because the target audience (catering, tourism) was busy trying to survive the crisis, and partly because resources had to be reallocated to other tasks.

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Video competition and Songwriters' Day: this was the first time that we experimented with inviting authors for Songwriters' Day, asking them to produce content and offering them a prize in the framework of a public vote to encourage the distribution of content on musicians' own platforms. Overall, the initiative was a success with the public, the press and the composer community. Our campaign also received positive professional feedback: In 2021, we were shortlisted in the CSR category of the Best.net Creative Competition, alongside other contenders such as Coca-Cola, Telekom and Campona.

In the first year of the epidemic, we achieved growth across all our online channels (AIS, Facebook, Twitter, Instagram, Song+Composer blog). The figures indicate that our partners are increasingly using our online platforms to find information and make inquiries, which is a natural consequence of a year like this. Opening up the possibility of e-administration with identification for those with a client gateway account and the communication thereof were paramount.

4. Distribution and documentation

The epidemic struck during the most intense phase of data processing and distribution preparations, forcing the members of the Artisjus work organization (also) to work completely from home en masse, on a scale never experienced before. For this reason, it is perhaps more significant than usual that we can say that the 2020 distributions were carried out in an orderly manner, without any incidents, and on time.

In the context of the amendment of the Distribution Regulation, particular attention was paid to the market distorting effects of the coronavirus and to drawing the consequences regarding the distribution.

In 2020, the main amendments of the Distribution Regulation were the following (by topic):

- amendment of the general rules on the allocation and deduction of royalties for social and cultural purposes;
- the possibility of the assessment of works with no turnover by the Arrangement Committee;
- distribution adjustment of canned music royalties for live music venues;
- modification of the algorithm for royalties on music played at live music venues;
- deletion of the term "intermission" in relation to music in radio programmes;
- a simplifying amendment to the scoring table for literary works;
- in relation to COVID: modification of the distribution of light music concerts and programmed events;
- in relation to COVID: modification of the distribution of canned music and blank sound carrier royalties on the basis of data on sound recording releases.

5. Social, cultural and professional activities

In harmony with the governing legal framework from 2012, Artisjus' foundations (Artisjus Music Foundation and Artisjus Literary Foundation) are only entitled to provide allowances as a supplement to pension or as a social benefit for persons in need. The amounts deducted for cultural purposes were transferred by Artisjus to the National Cultural Fund (NKA) in 2020 as well. In accordance with our Support Policies and the provisions of the Act on Copyright (Szjt.) and the Act on the Collective

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Administration of Copyright (Kjkt.), our professional support activities were carried out directly by the Society.

In 2020, the Association was already required to apply the provisions of Article 42(1) of the Act on the Collective Administration of Copyright pertaining to a right holder who is unknown or is at an unknown location and therefore his/her royalties cannot be distributed. Based on that, 90% of the royalties collected after 28 July 2016 and declared non-payable on 31 May 2020 were transferred to the National Cultural Fund as cultural subsidies, with the relevant provisions of the Association's 2020 Support Policy.

In the spring of 2020, the Artisjus Music Foundation launched an extraordinary social call for proposals, after the Artisjus Association transferred the social grant deducted from the 2019 royalties to the Foundation earlier than usual. This time, the Foundation was specifically looking for applications from those who were suffering from a loss of income due to the measures introduced in connection with the coronavirus (for example, but not exclusively, due to cancelled performances). In addition to social need, the Artisjus Music Foundation also took into account the composer's oeuvre. The Artisjus Foundation received an unprecedented number of applications. On the proposal of the Board, the General Assembly also took a decision that allowed Artisjus to devote even more resources to social causes than before.

6. International environment

Artisjus continues to take part in the work of the global confederation of rights management organizations (CISAC) and the European regional organization (GESAC) as a member of the board of both bodies. Moreover, Artisjus is represented in the legal committees of both organizations by our delegate, Gábor Faludi. Through several years of preparatory work and lobbying, both organizations played a major role in the adoption of the already mentioned EU legal reform package on copyright. Furthermore, the representatives of our individual professional fields participate actively in the international professional information exchange of collective management organizations.

7. Miscellaneous issues

The Society pursues no research and development.

The Society has a single business location (1016 Budapest, Mészáros utca 15–17.). Moreover, it has local offices in the following towns:

- Debrecen
- Győr
- Miskolc
- Pécs
- Szeged
- Zalaegerszeg

On 31 December 2016, the Society had altogether 180 active full-time employees.

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The Society has projected a net royalty income of 14,569,546 thousand HUF (without VAT and basic administrative fee) for the year 2021.

Budapest, 23 April 2021



Dr. András Szinger
Director General