



PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No.2004/45

ON COPYRIGHT AND RELATED RIGHTS

Kosovo Assembly,

Pursuant to Chapters 5.1(g), 9.1.26 (a) of the Constitutional Framework for Provisional Self-Government in Kosovo (UNMIK Regulation 2001/9, of May 2001);

for the purpose of protecting and developing the intellectual property in general and the right of authors in particular,

Hereby adopts the following:

LAW ON COPYRIGHT AND RELATED RIGHTS

GENERAL PROVISIONS

1. Scope of the Law
Article 1.

This Law regulates:

1.1. Rights, based on intellectual property, which belong to authors with respect to their works in the literary, scientific and artistic domain (referred to hereinafter as Copyright);

1.2. Rights based on intellectual property, which are related to Copyright (referred to hereinafter as related rights) and belong to:

- a). performers with respect to their performances,
- b). producers of phonograms with respect to their phonograms,
- c). film producers with respect to their videograms,
- d). radio and TV organizations (broadcaster) with respect to their broadcasts,
- e). makers of databases with respect to their databases,
- f). publishers with respect to their publications;

1.3. Administration of Copyright and related rights;

1.4. Protection of Copyright and related rights;

1.5. The application of this Law to foreign persons.

2. Principles of enforcement

Article 2.

The administrative measures, the surveillance by inspectors, the civil and criminal protection, as prescribed by this Law, shall be implemented according to general rules of the administrative, misdemeanor, civil and criminal procedures.

3. Relationship between Copyright and related rights

Article 3.

3.1. Protection granted under this Law for related rights shall leave intact and shall in no way affect the protection of Copyright.

3.2. Subject to diverging provisions on related rights, the provisions of this Law on the protection of elements of a work, on co-authors and authors of compound works, on the content of economic rights and the right to a special remuneration for private and other internal reproduction, on the limitations of Copyright (including the safeguarding of limitations), on the beginning of calculation and the effect of expiry of the term of protection, as well as on the transfer of Copyright, shall apply *mutatis mutandis* to related rights.

4. Definitions

Article 4.

The following definitions shall apply in this Law:

- a. “**Audiovisual Works**” shall include film works (cinematographic and TV works) and other audiovisual works.
- b. “**Broadcaster**” shall mean the natural or legal person who has editorial responsibility for the composition of television or radio program services for reception by the general public and transmits them or has them transmitted, complete and unchanged, by a third party.
- c. “**Collective Associations**” shall mean the associations formed, in accordance with Part IV, to carry out the activity of administering copyrights.
- d. “**Copyright**” shall mean rights, based on intellectual property, which belong to authors with respect to their works in the literary, scientific and artistic domain.
- e. “**Database**” shall mean a collection of independent works, data or other materials in any form, arranged in a systematic or methodical way and individually accessible by electronic or other means, whereby either the obtaining, verification or presentation of its contents demands a qualitatively and/or quantitatively substantial investment.
- f. “**Disclosure**” shall mean that a Copyright work or subject matter of a related right has been made available to the public, with the consent of the right holder.
- g. “**Moral Rights**” shall mean the exclusive personal powers, which protect the invulnerability of Copyright works and the personality of the author.

- h. “**Office**” shall mean the Office for Intellectual Property Rights, to be established in accordance with Article 169.1 of this Law.
- i. “**Original Works**” shall mean original pictures, collages, drawings, tapestries, sculptures, creations in ceramics and glass, photographs, and other original works of art.
- j. “**Phonogram**” shall mean the recording of a sound or a sequence of sounds on a sound carrier.
- k. “**Possessor**” shall mean a natural person or legal entity who has the possession of the right of an author.
- l. “**Public**” shall mean a larger number of persons that are outside the usual circle of a family or the usual circle of personal acquaintances.
- m. “**Publication**” shall mean that a sufficient quantity of already produced copies of a Copyright work, or of a subject matter of a related right, was offered to the public or put into circulation, with the consent of the right holder.
- n. “**Related Rights**” shall mean rights, based on intellectual property, which are related to Copyright.
- o. “**Videogram**” shall mean the recording of a sequence of pictures with or without the accompanying sound on the picture carrier or on the picture and sound carrier.

P A R T II

COPYRIGHT

Chapter 1. GENERAL PROVISIONS

Article 5.

Authors of works in the literary, scientific and artistic domain enjoy protection with respect to their works and their use according to this Law.

Article 6.

6.1. Copyright is an indivisible right to a work, which belongs to the author as the subject of intellectual property on his Copyright work.

6.2. Copyright consists of:

- a). exclusive personal powers, which protect the invulnerability of Copyright works and the personality of the author (referred hereinafter as moral rights);
- b). exclusive economic powers (referred hereinafter as economic rights);
- c). other powers of the author (referred hereinafter as other rights of the author).

Article 7.

7.1. Copyright belongs to the author by the mere fact of creation of a work.

7.2. For the granting of Copyright protection no prior administrative formalities of any kind are requested.

Chapter 2.

COPYRIGHT WORKS AND CONDITIONS FOR PROTECTION

Protected works

Article 8.

8.1. Copyright works are original intellectual creations in the domain of literature, science and art, which are expressed in any mode, unless otherwise provided by this Law.

8.2. As Copyright works are considered in particular:

- a). spoken works such as speeches, lectures, tales and similar works expressed through speaking;
- b). written works such as texts in books, brochures, newspapers and other texts in the domain of letters, scientific and expert literature, as well as computer programs;
- c). musical works with or without words, regardless if they are expressed in sheet music or other mode;
- d). theatrical or theatrical-musical works, and works of puppetry, including radio plays;
- e). choreographic works and works of pantomime;
- f). film works (cinematographic and TV works) and other audiovisual works (referred to hereinafter as audiovisual works);
- g). photographic works and works produced by a process similar to photography, such as art photos, photomontage, photos on posters, photos by reporters;
- h). works of fine art in the domain of drawing, painting, graphic arts, sculptures;
- i). works of architecture such as sketches, plans, models and built structures of architectural and engineering works in the field of architecture, urban planning, landscape architecture and interior design;
- j). works of scenography;
- k). works of applied art as well as of industrial and graphic design;
- l). cartographic works (maps, plans, sketches, 3-D models) in the field of geography and topography;
- m). presentations of a scientific, educational or technical nature (technical drawings, graphs, tables, expert opinions, 3-D representations).

2. Elements of a Copyright work Article 9.

9.1. An unfinished Copyright work, component parts and the title of a work, which are *per se* original intellectual creations, shall enjoy the same protection as the work itself.

9.2. It is not permitted to use for a title of a work such title as has already been used for the same kind of work, if such title creates or is likely to create confusion as to the authorship of the work.

3. Derivative works Article 10.

10.1. As a Copyright work shall be considered also derivative (adapted or arranged) works, if they fulfil the conditions of Article 8 Paragraph 1 of this Law.

10.2. Derivative works are translations, adaptations, musical arrangements and other transformations of a pre-existing work or of other material.

10.3. Protected translations are also translation of laws, court decisions and administrative acts, if they are not made for official publication and published as such.

10.4. Rights of authors of pre-existing works must not be infringed by transformations of those works.

Collections of works Article 11.

11.1. As a Copyright work shall be considered also a collection of existing works or of other material, such as (encyclopaedias, anthologies, collections of quotations, poetry and fiction etc.), which, by virtue of selection or coordination or arrangement of their contents, are individual intellectual creations, shall be deemed independent works.

11.2. As a collection shall be considered also a database of independent works, data or other material arranged in a systematic or methodical way and individually accessible by electronic or other means.

11.3. Protection under this Article shall not apply to computer programs used in the making or operation of electronic databases.

11.4. Rights of authors of pre-existing works shall not be infringed by the inclusion of such works in a collection; by the inclusion in a collection, pre-existing material does not become a protected work.

5. Non-protected creations Article 12.

Copyright protection shall not be afforded to:

- a). ideas, principles, instructions, procedures, discoveries and mathematical concepts *per se*;
- b). official laws, rules and other regulations;
- c). official material and publication of parliamentary, governmental and other

- organizations with powers of public office;
- d). official translations of regulations and other official materials, as well as international agreements and other instruments;
 - e). applications and other acts in administrative and court procedures;
 - f). official materials published for the information of the public;
 - g). expressions of folklore;
 - h). news of the day and various information, which have the character of usual press reports.

Chapter 3. THE AUTHOR

1. Natural person Article 13.

The author is a natural person who created the work.

2. Presumption of authorship Article 14.

14.1. A person whose name or firm, pseudonym or mark appears in the customary manner on the copy of the work or is so indicated at the time of disclosure of the work, shall be presumed the author or rightholder of the work, until proved otherwise.

14.2. Where the author is not known, the person who published the work (anonymous work and works published under the pseudonym or the mark) is presumed to be entitled to exercise the author's rights as long as the author does not become known. If this person is also not indicated, than the one who disclosed the work is so entitled.

14.3. The preceding paragraph 2 shall cease to apply once the author becomes known. The person entitled under the preceding paragraph, must transfer the benefits derived from the author's rights to the author, unless otherwise provided by contract. Rights acquired by third parties remain in force.

3. Co-authors Article 15.

15.1. If a work constitutes an inseparable whole created in collaboration of two or more persons, these persons shall be considered co-authors of such work.

15.2. The Copyright in a co-authors work belongs jointly to all co-authors and shall be administered by consensus of all of them, if not otherwise provided by this Law or contract.

15.3. A co-author may not oppose his authorization for the disclosure or use of the work without reason. If no agreement is reached, none of the co-authors may separately administer the rights.

15.4. The relation of the co-authors with regard to their shares in the economic benefit of the use of the work shall be determined in proportion to the extent of their respective contributions to the creation of the work, unless they are set otherwise by their agreement.

15.5. If an individual co-author waives his share in the economic benefits, the shares of the remaining co-authors grow accordingly to their initial size.

4. Authors of compound works Article 16.

16.1. When several authors combine their works for the purpose of exploitation in common or for certain forms of use (e.g. music and text, music and choreography, written works and illustrations etc.), each of them enjoys Copyright with regard to his contribution.

16.2. The relations between authors of compound works are regulated by contract.

16.3. Provision of Article 15 Paragraphs 3 to 5 of the present law shall apply analogously (*mutatis mutandis*) also to authors of compound works.

Chapter 4. MORAL RIGHTS

1. Right to the first disclosure Article 17.

17.1. The author shall have the exclusive right to determine whether, when, and how his work is to be disclosed for the first time.

17.2. The author shall have the exclusive right to communicate to the public or to describe the contents of his work as long the work is not disclosed with his authorization.

2. Right to recognition of authorship Article 18.

18.1. The author shall have the exclusive right to be recognized and indicated as the author of the work.

18.2. The author may determine whether his authorship is to be indicated with his name, pseudonym or mark.

3. Right to integrity of the work Article 19.

The author shall have the exclusive right to prohibit any distortion or any other tampering with his work, as well as any use of his work, if such tampering or use could be prejudicial to his creative honour and respect.

4. Right to withdrawal Article 20.

20.1. The author may revoke assigned economic right from its holder, provided he has serious moral reasons for this, and on condition that he first reimburses the damage caused to the right holder by such revocation.

20.2. With the exercise of the right to withdrawal, the economic right of the holder is extinguished. This fact occurs with payment of the reimbursement.

20.3. The author must adequately reimburse the holder. The holder must notify the author of the extent of damages suffered by him within three months of the receipt of the notice of revocation. If the holder fails to do so, the right to withdrawal takes effect on the expiration of this term.

20.4. If the author later wishes to re-assign the economic rights in his work again, he shall be required, within the period of ten years after exercising his right to withdrawal, to offer these rights first to the previous holder, under the previous conditions.

20.5. The provisions of this article do not apply to computer programs, audiovisual works and databases.

Chapter 5. ECONOMIC RIGHTS

1. Right of use and its forms Article 21.

21.1. The author enjoys the exclusive right of economic use of his work in any form and to authorise or prohibit the use of his work to others, if not otherwise provided by this Law.

21.2. Other persons may use a Copyright work only on the basis of an authorization or assignment of the respective exclusive rights by the author and under the conditions he has set, if not otherwise provided by this Law.

21.3. For each assignment of a right to use a work the author is entitled to a remuneration, if not otherwise provided by this Law or by contract.

Article 22.

22.1. A Copyright work can be used in a material, non-material and modified form.

22.2. Use of the work in material form includes in particular the following exclusive rights of the author:

- a). the right of reproduction (Art. 23),
- b). the right of distribution (Article 24),
- c). the right of rental (Article 25).

22.3. Use of the work in non-material form (communication to the public) includes in particular the exclusive rights of the author:

- a). the right of public performance (Article 26);
- b). the right of public transmission (Article 27);
- c). the right of public communication by phonograms and videograms (Article 28);

- d). the right of public presentation (Article 29);
- e). the right of broadcasting (Article 30);
- f). the right of rebroadcasting (Article 31);
- g). the right of public secondary emission (Article 32);
- h). the right of making available to the public (Article 33).

22.4. Use of the work in a modified form includes in particular the following exclusive rights of the author:

- a). the right of transformation (Article 34);
- b). the right of audiovisual adaptation (Article 35).

2. Use of the work in material form

2.1. Right of reproduction Article 23.

23.1. The reproduction right is the exclusive right of the author to authorise or prohibit to fix his work in a material medium or in another copy directly or indirectly, temporarily or permanently, by any means and in any form, in whole or in part and regardless of the number of copies.

23.2. The work is reproduced in particular by graphic reproduction (printing), three-dimensional reproduction, casting, photographic reproduction, sound or visual fixation, by saving in electronic form etc.

23.3. The building of an architectural structure according to a project is considered an act of reproduction.

2.2. Right of distribution Article 24.

24.1. The right of distribution is the exclusive right of the author in respect of the original of his work or of copies thereof, to authorise or prohibit any form of distribution to the public by sale or otherwise, including the offering for such purpose, unless otherwise specified in the present law and contract.

24.2. By the first sale or other form of transfer of ownership in an original or a copy of a work in Kosovo or in the European Union and abroad, made by the author or with his authorization, the right of distribution with respect to such original or copy of a work is exhausted in Kosovo and in the European Union and abroad.

2.3. Rental right Article 25.

25.1. The rental right is the exclusive right of the author to authorise or prohibit the making available for use the original or copies of a work, for a limited period of time, and for direct or indirect economic advantage.

25.2. The preceding paragraph 1 shall not apply to the use of:

- a). architectural structures;
- b). originals or copies of works of applied art and industrial design;
- c). works for on-the-spot reference.

25.3. The author who has assigned to the producer of phonograms or to the film producer the rental right, retains the right to an equitable remuneration for the rental.

3. Use of the work in non-material form

3.1 Right of public performance

Article 26.

26.1. The right of public performance is the exclusive rights of the author to authorise or prohibit the public recitation, public musical performance or public presentation.

26.2. The right of public recitation is the right of live communication of written and oral works by reciting or reading to the public.

26.3. The right of public musical performance is the right of live communication of a musical work to the public by live performance.

26.4. The right of public presentation is the right of live communication of a scenic work (theatre plays, musicals, choreographic and pantomimic works etc.) to the public.

3.2. Right of public transmission

Article 27.

The right of public transmission is the exclusive right of the author to authorise or prohibit to relay recitations, performances, or presentations of his work by a loudspeaker, screen or similar device beyond the original place or location.

3.3. Right of public communication by means of phonograms or videograms

Article 28.

The right of public communication by means of phonograms and videograms is the exclusive right of the author to authorise or prohibit to communicate to the public of his work, which is fixed in a phonogram or videogram by technical means for the communication of sounds, images or sounds and images.

3.4. Right of public presentation

Article 29.

The right of public presentation is the exclusive right of the author to authorise or prohibit to communicate to the public, by technical means, his audiovisual work, photographic work, work of fine art, applied art and industrial design, choreographic work or presentations of scientific or technical nature.

3.5. Broadcasters and Satellite Transmission

Article 30

30.1. Broadcasters shall enjoy protection under this Law that transmit their broadcast from transmitters located on the territory of Kosovo.

30.2. The authors and holders of related rights shall enjoy protection under this Law, whose work or subject matter of related rights is communicated to the public by satellite, when under the control and responsibility of a broadcaster the relevant program-carrying signals are sent from the territory of Kosovo, into an uninterrupted chain of communication, to a satellite and down to the Earth.

30.3. The protection granted by this Law applies also when the condition from the foregoing paragraph is not fulfilled, however:

- a. the uplink station from which program-carrying signals are transmitted is located in Kosovo, or
- b. the broadcaster which commissioned the communication to the public by satellite is legally registered in Kosovo.

3.6. Retransmission

Article 31

31.1. The right to retransmit a transmitted work in the framework of simultaneous, unaltered and unabridged retransmission of a program by a cable, microwave system, or other means ("retransmission") shall only be exercised by a collective association. This shall not apply to rights that a broadcaster exercises in respect of its own transmissions.

31.2. The author who has granted the right of retransmission to a broadcaster or to the producer of a phonogram or videogram shall be protected by this Law.

31.3. Any person or legal entity which retransmits the phonogram or audiogram shall have the burden of proving that it has entered into valid contractual agreements to retransmit the broadcast material.

3.7. Right of further public emission

Article 32.

The right of further public emission is the exclusive right of the author to authorise or prohibit to communicate to the public an already broadcast work or a work already made available to the public, by a loudspeaker, screen or similar device (e.g. in a public transport vehicle, in restaurants, in waiting rooms etc.).

3.8. Right of making the work available to public

Article 33.

The right of making available is the exclusive right of the author to authorise or prohibit that a work, by wire or wireless means, is made available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them (interactive communication).

4. Use of a work in an altered form

4.1. Right of transformation

Article 34.

34.1. The right of transformation is the exclusive right of the author to authorise or prohibit the translation, adaptation for stage, the stage or musical arrangement or other transformation for the creation of a derivative work.

34.2. The right mentioned in the preceding paragraph applies also to cases where a work of the author is included or incorporated in a new work in unaltered form.

34.3. The author of a pre-existing work retains the exclusive right to use his work in its transformed version, unless otherwise provided by this Law or by contract.

4.2. Right of audiovisual adaptation

Article 35.

The right of audiovisual adaptation is the exclusive right of the author to authorise or prohibit the adaptation of his work or its use for the fixation of an audiovisual work.

Chapter 6.

OTHER RIGHTS OF THE AUTHOR

1. Right of access and exhibition

Article 36.

36.1. The author has a right of access to the original or to a copy of his work, which is in the possession of another (referred hereinafter as the possessor), if such access is necessary for the exercise of his right of reproduction or of transformation of the work, and does not essentially affect the legitimate interests of the possessor.

36.2. The author may demand the possessor of the original of his work of fine art or of his photographic work, to temporarily deliver him that work for the purpose of exhibition.

36.3. The temporary delivery of the original, according to the preceding paragraph (2), may be conditioned by the possessor upon posting of sufficient security or upon acquiring insurance coverage in the amount of the market value of the original.

36.4. The author must take care that the access or exhibition of the work causes the least inconvenience to the possessor. The access or exhibition of the work are at the author's own expense. The author is strictly liable for any damage to the original or copy of the work, even if there is no liability in his acting.

2. Droit de suite Article 37.

37.1. In cases of resale of an original work of art subsequent to the first transfer of the work by the author, the author has the right to be notified of such transfer, as well as the right to a remuneration in the amount as specified in this Article.

37.2. The liability for payment according to the preceding paragraph shall be jointly shared by the seller, the buyer and the intermediary, who are dealing with art sales (e.g. salesrooms, art galleries, auction houses).

37.3. Original works of art under Paragraph (1) of this Article mean original pictures, collages, drawings, tapestries, sculptures, creations in ceramics and glass, photographs, and other original works of art. Copies of these works shall be considered as originals, if they have been created or authorized by the author himself and have been made in limited numbers, and in principle have been numbered and signed by the author.

37.4. The droit de suite remuneration shall be paid in a percentage of the market sale price (net of tax) of the original, but only if the sale price exceeds 2.000 €

37.5. The percentage of the preceding paragraph (4) shall be set at the following rates, whereby the total amount of the remuneration may not exceed 12.500 €

- 4% for the portion of the sale price above 2.000 € and to 50.000 €
- 3% for the portion of the sale price above 50.000 € and to 200.000 €
- 1 % for the portion of the sale price above 200.000 € and to 350.000 €
- 0,5% for the portion of the sale price above 350.000 € and to 500.000 €
- 0,25% for the portion of the sale price above 500.000 €

37.6. Droit de suite may not be waived or assigned during the life of the author, and is not subject to execution.

3. Public lending right Article 38.

38.1. Public lending right is the right of the author to equitable remuneration, when the original or a copy of a work is made available for use, for a limited period of time and not for direct or indirect economic advantage, and if done through public establishments.

38.2. The preceding paragraph shall not apply to the use of:

- a). originals or copies of works in libraries in schools of all grades;
- b). architectural structures;
- c). originals or copies of works of applied art and industrial design;
- d). originals or copies of works, for on-the-spot reference within the premises of the public establishment;
- e). for lending between public institutions.

38.3. Lending of originals or copies of computer programs and databases to the public is the exclusive right of their author.

4. Right to special remuneration Article 39.

39.1. If according to the nature of a Copyright work it may be expected that the work shall be used for private reproduction according to Article 45 of this Law in the form of making a sound or visual fixation, the author has a right to a portion of a special remuneration for such reproduction of his work.

39.2. Special remuneration under the preceding paragraph with respect to sound or visual fixation shall be paid:

- a). upon the first sale or importation of new appliances for sound or visual fixation, and
- b). upon the first sale or importation of new blank audio or video fixation mediums.

39.3. Special remuneration under paragraph (1) of this Article, with respect to photocopying shall be paid:

- a). upon the first sale or importation of new appliances for photocopying, and
- b). upon each photocopy made for sale, taking into account their probable number in one year.

39.4. The terms sound or visual fixation and photocopying in this Article include other similar reproduction techniques.

39.5. The right to special remuneration may not be waived, assigned during the life of the author, and is not subject to execution.

Article 40.

40.1. Persons liable to pay remuneration under the preceding Article 39 are: manufacturers of appliances for sound or visual reproduction; manufacturers of appliances for photocopying; manufacturers of blank audio or video media as well as holders of appliances who are offering photocopying services against payment. Jointly liable with manufacturers are importers of appliances and blank audio or video media, unless such imports are intended for private and non-commercial use, as part of their personal luggage. (*de minimis imports*)

40.2. Manufacturers mentioned in the preceding paragraph 1 of this article are not liable to pay remuneration with respect to such appliances or blank audio or video media which are made for exportation.

40.3. Persons mentioned in paragraph (1) of this Article shall, on request of a collecting society under Article 169, 170 of this Law, submit data about the type and number of sold or imported appliances and blank audio or video media, as well as such information about the photocopies sold, as is necessary for the calculation of the special remuneration due.

Article 41.

41.1. The entire amounts of the special remuneration under Article 39 of this Law, which belong to all beneficiaries entitled under this Law, shall be set by the Government of Kosovo. With collective or tariff agreements between a collecting society and an association of users, special tariffs may be provided for.

41.2. The amounts mentioned in the preceding paragraph shall be set separately: for each appliance for sound fixation and each appliance for visual fixation (including e.g. personal computers); for each sound and visual fixation medium depending on the possible duration of the fixation (including e.g. CD-ROMs, DVD-s and similar media); for each appliance for photocopying (including e.g. fax machines, scanners etc), depending on its capacity (number of copies per minute), and its capacity to make colour copies (double the amount of black-and-white copying); as well as for each photocopy page.

41.3. The amounts under Paragraph (1) of this Article shall be determined in nominal money value. When setting these amounts, the probable extent of the application of effective technological measures on the market must be taken into account.

Chapter 7.

LIMITATIONS ON COPYRIGHT

I. COMMON PROVISIONS

Article 42.

42.1. Limitations on Copyright in the meaning of this Chapter signify that a work can be used:

- a). without authorization by the author and without payment of the respective remuneration (referred hereinafter as free use), or
- b). without authorization by the author but with payment of a respective remuneration.

42.2. Limitations on Copyright are permissible only in cases explicitly mentioned in this Chapter, provided that the extent and mode of such exploitation of Copyright works is limited by the intended purpose, does not conflict with normal use of the work and does not unreasonably prejudice the legitimate interests of the author.

42.3. In cases when the use of works is allowed according to the provisions in this Chapter, the author's name and the source must be indicated, unless this turns out to be impossible for objective reasons or it is explicitly excluded by this Law.

II. FREE USE

1. Implementation of official procedures

Article 43.

Use of a work for the purposes of public security or to ensure the proper performance or reporting of administrative, parliamentary or judicial proceedings, without the obligation to indicate the name of the author and the source, where the work is taken from.

2. Teaching Article 44.

For the sole purpose of illustration for teaching in schools of all grades and in non-commercial extent, it shall be free to:

- a). publicly perform disclosed works in the form of direct teaching of the school;
- b). publicly perform disclosed works at school celebrations with free admission, on condition that the performers receive no payment for their performance;
- c). publicly communicate by means of phonograms and videograms for teaching purposes;
- d). reproduce short excerpts of disclosed works for the purpose of direct teaching or examination;
- e). rebroadcast a radio or television school broadcast;
- f). to reproduce radio or television school broadcasts on phonograms or videograms only for the purpose of direct teaching and their communication to the public within the rooms of the school.

3. Private and other internal reproduction Article 45.

45.1. Subject to Article 39 of this Law, the reproduction of a disclosed work shall be free, if made in no more than three copies and provided that the conditions of Paragraphs (2) and (3) of this Article are met.

45.2. A natural person shall be free to reproduce a work :

- a). on any medium, if it does so for private use and not for ends that are directly or indirectly commercial, and the copies are not delivered or communicated to the public.
- b). on paper or a similar medium, effected by the use of photocopying or a similar photographic technique.

45.3. Public libraries, educational or scientific institutions, public museums, public archives and similar public institutions shall be free to reproduce a work on any medium, if they do so from their own copy and not for ends that is directly or indirectly commercial.

45.4. Regardless of the provisions of the preceding paragraphs 1, 2 and 3 reproduction is not permitted with respect to books in their whole extent, with respect to sheet music, electronic databases, computer programs, and in the form of building of architectural structures, unless otherwise provided by this Law or by contract.

45.5. Regardless of the provisions of the preceding Paragraph 4, it shall be permissible, under the conditions of Paragraph (1) of this Article:

- a). to reproduce a book in its whole extent, if it is out of print for a minimum of two years;
- b). to sheet music by means of handwritten transcription.

4. Ephemeral TV fixations Article 46.

46.1. A broadcaster, which is authorized for the broadcasting of a work, may freely reproduce such work with its own facilities on a phonogram or videogram and broadcast it once again.

46.2. The reproduction of the work of the preceding paragraph must be deleted in one month after the broadcast at the latest.

46.3. The reproduction of paragraph 1 of this Article may be delivered to a public archive if it is of exceptional documentary character. The broadcaster must immediately notify the author on such delivery.

5. People with a disability Article 47.

It shall be free to reproduce, distribute and make available to the public works for the benefit of people with a disability, to the extent required by the specific disability. Such use is allowed under the conditions, that it is directly related to the specific disability, that the work in question is not yet available in the required format and that it is not intended for direct or indirect commercial ends.

6. Ceremonies and celebrations Article 48

It is free to use a work during religious ceremonies an official celebration, organized by a public authority.

7. Special cases of free use Article 49.

49.1. It shall be free to perform temporary acts of reproduction of a work, which are transient or incidental, which are an integral and essential part of a technological process, which have no independent economic significance and the sole purpose of which is to enable that the work :

- a). be transmitted in a network between third parties by an intermediary, or
- b). be lawfully used.

49.2. It is free to use a disclosed work in other material, if it is included there incidentally and if it is not the essential element of that use.

8. Right of public information Article 50.

In order to have free access to information of public nature it shall be free:

- a). to reproduce, to distribute and to communicate to the public of works, which are capable of being seen or heard as a part of a current event that is being reported on, but limited to the extent necessary for the reporting on the daily event;

- b). to reproduce and communicate to the public in an abridged form the contents of disclosed works of the author in the form of a review or other abstracts;
- c). to use parts of several different commentaries and newspaper articles, which are disclosed in other public media in the form of daily surveys (press surveys);
- d). to use political and other speeches held in public debates to the extent justified by the informatory purpose.

9. Quotations Article 51.

It shall be free to use in its own work short parts of a disclosed work and single disclosed works in their entirety in the field of photography, fine arts, architecture, applied art, industrial design and cartography, provided it is necessary for the purpose of criticism or review and it is in accordance with the principle of fair practice.

10. Free adaptations Article 52.

The adaptation of a disclosed work shall be free:

- a). if it is a private or other internal transformation, which is not available to the public;
- b). if the work is transformed into a parody or caricature, provided this does not, or is not likely to, create confusion as to the source of the work;
- c). if the transformation is connected to the authorized use and to the legal purpose.

11. Catalogues Article 53.

Displayed works of fine arts, applied arts, industrial design and photographic arts, may be freely reproduced and distributed in catalogues, which are published by the organizers for the promotion of an exhibition or auction, but without any direct or indirect economic gain.

12. Works located in public places Article 54.

54.1. Works permanently placed in public streets, squares, parks or other generally accessible public places may be used freely.

54.2. Works mentioned in the preceding paragraph may not be reproduced in a three-dimensional form, used for the same purpose as the original work, or used for direct or indirect economic gain.

13. Demonstration of equipment
Article 55.

In workshops, shops, fairs and services it is free to reproduce a work on a phonogram or videogram, as well as to communicate to the public works, provided this is done only to the extent necessary for the purpose of demonstration of equipment, which are produced, sold or serviced at these premises.

14. Databases
Article 56.

56.1. A lawful user of a disclosed database or of a copy thereof may freely reproduce or alterate that database, if this is necessary for the purposes of access to its contents and the normal use of that contents. Where the user is authorized only to a part of the database, this provision shall apply only to that part.

56.2. Any contractual provision contrary to the preceding paragraph shall be null and void.

III. STATUTORY LICENSES

1. Readers and text books
Article 57.

Upon payment of a respective remuneration, it shall be lawful to reproduce and to distribute in readers and textbooks parts of disclosed works, as well as single works of fine arts, photography, architecture, applied art, industrial design and cartography, provided these include works of a number of authors and they are intended for teaching in schools of all grades.

2. TV and radio commentaries, newspaper articles
Article 58.

Upon payment of a respective remuneration, it shall be lawful to communicate to the public, to reproduce and to distribute in periodical publications and other public media TV and radio commentaries, photographs and newspaper articles, which are disclosed in other public media and concern current economic, political, religious and similar topics, unless they contain a reservation clause to the contrary.

3. Broadcasting of published phonograms
Article 59.

The broadcasting of works from published phonograms shall be allowed, provided that broadcaster has prior to broadcasting concluded an agreement with the Collective Association on the amount, mode and term of payment of a remuneration.

4. Social institutions
Article 60.

Upon payment of a corresponding remuneration, the reproduction and secondary emission of broadcasts in hospitals, prisons and similar social institutions is allowed.

5. Safeguarding of limitations on rights

Article 61.

61.1. If a rightholder applies technological measures under the provisions of this Law, he is obliged to make available to a beneficiary of the limitations under Articles 43 to 47 and 60 of this Law, upon his request and not later than in 14 days after its receipt, the means for benefiting from those limitations, provided they are used only to the extent necessary and the beneficiary has legal access to the protected work or subject matter of related rights.

61.2. If a rightholder fails to comply with the obligation under the preceding Paragraph, the beneficiary or an association of beneficiaries may address this issue to the competent court.

61.3. The preceding paragraphs of this Article shall not apply :

- a). if a rightholder has made available to the beneficiary the means to benefit from the mentioned limitations in a satisfactory and necessary way, either voluntarily or under agreement;
- b). concerning technological measures applied in implementation of obligations of rightholders, mentioned in the preceding paragraphs;
- c). to works made available to the public on agreed contractual terms in such a way that members of the public may access them from a place and at a time individually chosen by them.

Chapter 8.

LIMITATIONS ON THE DURATION OF COPYRIGHT

1. Term of protection

Article 62.

62.1. The Copyright shall run for the life of the author and for 70 years after his death.

62.2. Copyright in anonymous and pseudonymous works shall run for 70 years after the lawful disclosure of the work.

62.3. When the pseudonym leaves no doubt as to the identity of the author, or if the author discloses his identity during the period referred to in the preceding paragraph, the term of protection shall be that laid down in paragraph 1. of this Article.

62.4. Copyright on a co-author's work shall last 70 years from the death of the last surviving co-author.

62.5. In case of collective works, the Copyright shall run for 70 years after the lawful disclosure of the work.

62.6. When the term of protection does not run from the death of the author, and the work was not lawfully disclosed, , the Copyright shall run for 70 years from its creation.

62.7. When the term of protection is calculated from the day of lawful disclosure of the work, and the work is disclosed in volumes, parts, instalments, issues or episodes, the term of protection shall be calculated for each such item separately.

62.8. Insubstantial changes to the selection, adjustment or arrangement of the contents of a collection of works shall not extend the term of protection in that collection.

62.9. The terms of protection laid down in this Article shall be calculated from the first day of January of the year following the year in which the event which gives rise to them has occurred.

2. Effect of the lapse of time
Article 63.

On the expiration of the terms of protection of economic rights, as set forth in this Chapter, the Copyright work falls into public domain and is free for use.

3. The right of first publication and the right of withdrawal
Article 64.

Regardless of the provisions of Article 62 of this Law, the right of first publication and their right of withdrawal shall run for the life of the author.

4. The right of authorship and integrity of the work
Article 65.

Regardless of the provisions of Articles 62 and 63 of this Law, the obligation to respect the right of authorship (Article 18) and the right integrity of the work (Article 19) runs without limitation in time.

Chapter 9.
TRANSFER OF COPYRIGHT

I. GENERAL PROVISIONS

1. Non-assignability of moral rights
Article 66.

The author cannot assign his moral rights to another person.

2. Succession of Copyright
Article 67.

Economic rights and other rights of the author and the executing of moral rights, which last after the death of the author, are subject to succession.

3. Assignment of economic rights
Article 68.

Economic rights and other rights of the author are constituting part of the property of the rightholder and may be subject matter of legal transactions.

4. Rightholder of economic rights
Article 69.

69.1. The author is the original rightholder of all economic rights and other rights of the author on his work.

69.2. Besides the author, the right holder of the rights mentioned in the preceding paragraph 1 can be also a natural or legal person to the extent in which they are assigned to him/it by law or by legal transaction.

5. Legal capacity
Article 70.

Rights recognized by this Law to the author, including the right to seek legal redress, belong to another right holder to the kind and extent in which they are assigned to him by law or by legal transaction, unless otherwise provided by this Law.

6. Execution
Article 71.

71.1. Copyright, unfinished works, undisclosed originals and manuscripts are not subject to execution.

71.2. Only economic benefits deriving from Copyright may be subject to execution.

7. Relationship between Copyright and ownership
Article 72.

72.1. The Copyright is independent from with ownership in a material object in which the Copyright work is embodied, unless otherwise provided by law.

72.2. Legal transactions on single economic rights or of other rights of the author with respect to a work, does not affect the ownership of the material object in which the work is embodied, unless otherwise provided by law or contract.

72.3. Legal transactions on the material object in which the work is embodied does not affect single economic rights or other rights of the author with respect to this work, unless otherwise provided by law or contract.

Article 73.

Only economic benefits deriving from the exploitation of Copyright shall be a part of the community property of spouses.

Article 74.

The owner of an architectural structure may freely adapt such work.

Article 75.

75.1. The owner of an original of a work, who intends to destroy the work and who has grounds to presume that the author has a justifiable interest in its preservation, may not destroy such original, before offering it to the author. The owner cannot claim more than the actual cost of material.

75.2. If the return of the original is not possible, the owner may destroy it, but shall allow the author to make a copy of the work on the author's expense.

75.3. The owner of an architectural structure may destroy such work, but the author has the right to make photographs of it and to demand the delivery of the reproductions of plans at his own expense.

75.4. The provisions of this Article are without prejudice to the protection of the work under the regulations on cultural heritage.

II. COPYRIGHT CONTRACT LAW

1. Copyright contract

Article 76.

76.1. The author may assign to another person economic rights for the use of his works by entering into a Copyright contract or other legal transaction, if not otherwise provided by this Law.

76.2. A Copyright contract includes above all: the names of the contracting parties, the title or other identification of the Copyright work as subject matter of the contract, the rights or kinds of use which are being assigned, possible limits in territory, time and contents etc.

76.3. Provisions of the law on obligations apply to Copyright contracts, if not otherwise provided by this Law.

2. Scope of assignment

Article 77.

77.1. An assignment of single economic rights or other single rights of the author, may be limited as to the extent, specific region (territory) and time (a certain term).

77.2. An assignment of economic rights can be exclusive or non-exclusive.

77.3. An exclusive assignment gives only the assignee the right to use the work according to the terms of the agreement and to the exclusion of any other person as well as the author.

77.4. A non-exclusive assignment gives an assignee the right to use the work according to the terms of the agreement besides the author and any other person who is the rightholder.

77.5. Regardless of the provisions of the preceding paragraphs an exclusive assignment of the right to use a work does not preclude the author to use that work in a collection of his selected works or collection of his complete works.

77.6. A non-exclusive assignment made prior to a subsequent agreement on the exclusive assignment is valid and effective as to the assignee of the exclusive rights, unless otherwise provided by the agreement between the author and the assignee of the non-exclusive rights.

3. Presumptions as to the scope of assignment Article 78.

78.1. If the law or a contract does not specify whether the assignment is exclusive or non-exclusive, it shall be presumed that rights are assigned non-exclusively.

78.2. If the law or a contract does not specify the territory of assignment, it shall be presumed that the assignment is limited to Kosovo.

78.3. If the law or a contract does not specify which single rights are assigned, or to what extent a single right is assigned, it shall be presumed that only such rights, and only to such extent are assigned, as is essentially for the achievement of the intentions of the contract.

4. Subsequent assignments Article 79.

79.1. An assignee to whom an economic right or other author's right has been assigned, may not, without the consent of the author, further assign this right to a third party, unless otherwise provided by contract.

79.2. Consent, mentioned in the preceding paragraph, is not required where the subsequent assignment of the right is a consequence of a sale, bankruptcy or liquidation of the legal person which is the rightholder of those rights.

79.3. The assignment of a certain right to use a work does not presume also the assignment of the right to remuneration in cases, when the use of a work is allowed without the authorization of the author but upon payment of a remuneration (legal licence).

79.4. Where subsequent assignment is allowed without the author's consent either by law or by contract, the initial and subsequent assignees are jointly liable to the author for his claims under the contract of assignment.

5. The rule of separate assignments Article 80.

80.1. An assignment of a single economic right or other single right of the author, has no effect on the assignment of other rights, unless otherwise provided by this Law or by contract.

80.2. An assignment of the right of reproduction of the work does not include the assignment of the right of its saving in electronic form, or the right to its sound or visual fixation, unless otherwise provided by this Law or by contract.

80.3. When assigning the right of rental of phonograms or videograms with a work, the author retains the right to a remuneration for each such rental. An author cannot waive this right.

6. Presumptions of joint assignment Article 81.

In case of assignment of the right of reproduction of the work, it shall be presumed that the right of distribution of copies of such work has been also assigned, unless otherwise provided by contract.

7. Assignment for periodic publications
Article 82.

82.1. If the author assigns his rights in the form of an inclusion of his work in a collection, which is being published periodically, it shall be presumed that the publisher gained the exclusive right of reproduction and distribution of the collection, unless otherwise provided by contract.

82.2. In the case of the preceding paragraph, the assignment becomes non-exclusive after one year following the date when the periodic publication was published.

8. Nullity
Article 83.

Any contractual stipulation, by which the author assigns the following rights, shall be considered null and void:

- a). Copyright in its entirety;
- b). moral rights;
- c). economic rights with respect to all his future works;
- d). economic rights with respect to yet unknown means of use of his work.

9. Formality
Article 84.

84.1. All agreements and other legal transactions on the assignments of economic rights or other author's rights, and all author's authorizations must be in writing, unless otherwise provided by this Law.

84.2. In case of non-compliance with the preceding paragraph, all controversial or unclear stipulations shall be interpreted in favour of the author.

10. Royalty or remuneration
Article 85.

85.1. The royalty or other remuneration may be determined: as a lump sum, with respect to the extent of use of the work, with respect on the economic effects of the use of the work, with respect to the extent and quality of the work or by combining these methods, as well as taking into account other conditions that may have effect on its amount.

85.2. Where royalty or remuneration was not determined by contract, it shall be determined by taking into account the usual fees for a particular category of works, the scope and duration of use, and other circumstances of the case.

11. Right of revision of a disproportionate remuneration
Article 86

86.1. Where the profit derived from the use of the work is in manifest disproportion to the agreed upon lump sum of remuneration, the author may demand that the contract be revised, so that a more equitable share of the revenues is provided for him.

86.2. The right from the preceding paragraph shall be precluded in two years after the author has learned about the existence of the disproportionate remuneration, but in ten years after the assignment of the right in any case.

86.3. An author cannot waive the right mentioned in the 1st paragraph of this Article

12. Accounting

Article 87.

87.1. Where the royalty or remuneration is agreed to, or determined in proportion to the revenues derived from the exploitation of the work, the user of the work must keep the books or other documentation necessary to determine the amount of such revenues.

87.2. The user of the work shall allow the author or his representative to inspect the documentary evidence mentioned in the preceding paragraph, and shall send him precise reports on the revenues, both at agreed upon intervals, but at least once a year.

13. Revocation of economic right

Article 88.

88.1. An author may revoke an assigned economic right, in case its exclusive holder exploits such right to insufficient extent or not at all, and the author's valid interests are considerably adversely affected thereby, unless otherwise provided by this law.

88.2. The revocation mentioned in the preceding paragraph cannot be effected before the expiration of two years from the time of assignment of the economic right to a work or the delivery of the copies of the work, if the latter occurred later. In case of contributions to daily newspapers, this term shall be three months, and in case of other periodical publications, the term shall be one year.

88.3. An author may exercise his revocation, according to this Article, only after first informing the holder on the planned revocation and having given him an adequate additional time to comply with the demand for sufficient exploitation of the assigned right.

88.4. With the exercise of revocation, the assigned right shall be extinguished.

88.5. If equity so requires, the author must adequately indemnify the holder.

88.6. Author cannot waive the right of revocation, as provided by this Article.

III. SPECIAL COPYRIGHT CONTRACTS

1. PUBLISHING CONTRACT

1. Subject matter of the contract

Article 89.

89.1. By a publishing contract the author assigns to the publisher the right of reproduction of his work in the form of printing, and the right to distribute the copies of the work, while the publisher undertakes to reproduce and distribute the work and to pay the author a remuneration.

89.2. If the work has not been disclosed, the publishing contract presumes that an authorization for the disclosure of the work was granted.

89.3. A publishing contract may include the assignment of the right of translation of the work into another language as well as the reproduction and distribution of such work.

89.4. A publishing contract on the publication of articles, drawings, caricatures and other Copyright contributions in newspapers and periodical press does not need to be concluded in writing.

89.5. An author's agent may conclude a publishing contract only for such works as are expressly mentioned in his power of attorney.

2. Contents of the contract

Article 90.

90.1. The publishing contract shall specify, in particular:

- a). the term of delivery of the proper manuscript or other copy of the work in order to enable the publisher to publish the work. If not otherwise stipulated in the contract, this term is one year after the conclusion of the contract;
- b). the term in which the publisher shall put the copies of the work into circulation. If not otherwise stipulated in the contract, this term is one year after the receipt of the proper manuscript or other copy of the work;
- c). the number of editions which the publisher is entitled to publish. If not otherwise stipulated in the contract, the publisher is entitled to publish only one edition;
- d). if a new edition has been agreed upon and the previous edition is exhausted, the term in which the publisher is required to put the copies of such new edition into circulation. If not otherwise stipulated in the contract, this term is one year after the author has requested the new edition;
- e). the design and technical layout of the copies of the work.

90.2. If the royalties are fixed as a percentage of the retail price of the copies sold, the publishing contract must specify the number of the copies of the first edition. If this number is not specified, it shall be presumed that the work is published in at least 5000 copies.

90.3. If the royalties are set as a lump sum, the publishing contract must specify the total number of copies to be printed. If this number is not specified, and unless otherwise indicated by the purpose of the contract, or professional usage, the publisher may reproduce and distribute a maximum of 500 copies.

3. Duties of the publisher

Article 91.

The publisher is obliged:

- a). to care on the sales of the copies of the work and to report on such sales to the author, upon his request;
- b). to enable the author, upon his request and in the respective technical stage of printing of the work, to make corrections of the work;

- c). to make possible to the author to introduce respective changes into the work, on the occasion of preparing each subsequent edition of the work, under the condition that this does not change the character of the work and that it is not in disproportion with the duties of the publisher, taken from the aspect of the publishing contract as a whole.

4. Duty to return the manuscript Article 92.

The manuscript or other original of the work, which was delivered to the publisher, must be returned to the author, except in cases of articles, drawings and other contributions in newspapers and periodical press, if not otherwise stipulated in the contract.

5. Publisher's priority right Article 93.

93.1. The publisher, who has acquired the right to publish the work in a book form has, among equal offers, the priority right to publish the work in electronic form.

93.2. The priority right, mentioned in the preceding paragraph, shall run for the period of three years from the agreed upon date of publication of the work. Publisher must give written notice within 30 days of the acceptance of author's written offer.

6. Destruction of unsold copies Article 94.

If the publisher intends to dispose of the unsold copies of the work for pulping, he must first offer them to the author, if he can be reached in a customary manner, at the price he would have obtained if copies were sold for pulping.

7. Destruction of work by force majeure Article 95.

95.1. Where the only available copy of the work is destroyed by force majeure after its delivery to the publisher, the author is entitled to the remuneration that would have been due to him if the work had been published.

95.2. When a prepared edition is completely destroyed due to force majeure before it was put into circulation, the publisher is entitled to prepare a new edition, and the author shall have the right to remuneration only for the destroyed edition.

95.3. When a prepared edition is partially destroyed by force majeure before it was put into circulation, the publisher is entitled to reproduce, without payment of remuneration to the author, only such number of copies as were destroyed.

8. Termination of contract
Article 96.

The publishing contract shall terminate:

- a). if the author dies before the completion of the work;
- b). if the copies of all agreed upon editions are sold out;
- c). if the term of the contract has expired;
- d). by rescission of the contract as provided for by law on obligations.

9. Rescission of contract
Article 97.

97.1. If the publisher does not publish the work within the stipulated term or the term as set out in Article 90 paragraph 1 item (b) of this Law, the author may rescind the contract and claim or keep the remuneration received and claim damages.

97.2. The author may rescind the publishing contract if the publisher, after the previous edition is sold out and more than one edition has been stipulated, does not proceed to put into circulation the copies of the subsequent edition within the term as set in Article 90 Paragraph 1 item (d) of this Law.

97.3. The publisher may rescind the publishing contract if the author does not deliver the manuscript or other copy of the work within the term as set in Article 90 Paragraph 1 item (a) of this Law.

97.4. An edition shall be considered sold out if the number of unsold copies is less than 100 copies.

2. PRESENTATION AND PERFORMANCE CONTRACT

Article 98.

By a contract of presentation or performance, an author undertakes to assign to the user the right of public presentation or public performance of his work, while the user undertakes to publicly present or publicly perform the work in a certain term, manner and under the conditions as set out in the contract, and to pay to the author a remuneration.

Article 99.

The author may assign the right of public presentation or public performance of a work simultaneously to several users, if not otherwise stipulated in the contract.

Article 100.

The right holder of the right of public presentation or public performance of a dramatical, musical and choreographic work shall conclude also copyright contracts on the theatrical stage direction, choreography, scenography and costumography.

Article 101.

If the author does not deliver the work (manuscript, score etc.) within the agreed upon term, the user may rescind the contract and claim damages.

Article 102.

The manuscript, the score or other original of the work, which is the subject matter of the contract must be returned to the author, if not otherwise stipulated in the contract.

Article 103.

The user shall be required to allow the author to inspect the course of the presentation or performance of the work, to provide for adequate technical conditions under which the work can be presented or performed, and to send to the author or his agent the playbill and inform him periodically on the income due to the presentation or performance.

Article 104.

If the user does not present or perform the work within the stipulated time, the author may rescind the contract and claim damages, in addition to the right to keep the remuneration received or to demand payment of stipulated remuneration.

3. CONTRACT FOR THE ADAPTATION OF A COPYRIGHT WORK

Article 105.

By a contract for the adaptation of a Copyright work the author assigns the right of adaptation of his work in the form of a stage adaptation, audiovisual adaptation or for other manners of use of the work in an altered form.

4. CONTRACT FOR A COPYRIGHT WORK MADE FOR HIRE

Article 106.

106.1. By a contract for a Copyright work made for hire, an author undertakes to create a work and deliver an original or copy of it to the ordering party, while the latter undertakes to pay a royalty to the author.

106.2. The ordering party may supervise the process of creating the work and give instructions, unless he is thereby interfering with the author's freedom of scientific or artistic expression.

106.3. The ordering party has the right to disclose the work and distribute it, whereas the author retains the remaining rights, unless otherwise provided by contract.

106.4. The ordering party for a portrait may reproduce such portrait, including the reproduction by means of photographs. If the portrait is a photography, reproductions which are not photographic are allowed.

106.5. The provisions of this Article shall apply *mutatis mutandis* for a work created by the author as the winner of a public tender.

106.6. To the contract for a Copyright work made for hire, the general provisions of the Law on obligations concerning work contracts shall apply, unless otherwise provided by this Law.

5. CONTRACT ON A COLLECTIVE COPYRIGHT WORK

Article 107.

107.1. Collective Copyright work is a work created by the collaboration of a larger number of co-authors with the merging of their single contributions into an entirety (e.g. encyclopaedias, miscellanies, encyclopaedia, databases, computer programs etc.). and on the initiative and under the organization of a natural person or a legal entity as the ordering party.

107.2. A special contract must be concluded for the purpose of creating a collective work. If the conditions mentioned in the preceding paragraph (1) are not met, such contract is null and void.

107.3. It shall be deemed that all economic rights and other rights of the authors to a collective work are exclusively and without limitations assigned to the ordering party, unless otherwise provided by contract.

107.4. The ordering party of a collective Copyright work has the right to disclose and use the work under its own name, provided that on each copy of the work a list of authors who have collaborated in the creation of that collective work is listed.

Chapter 10.

SPECIAL PROVISIONS ON CERTAIN COPYRIGHT WORKS

I. AUDIOVISUAL WORKS

1. Definition

Article 108.

Audiovisual works according to this Law, are cinematographic films, television films, animated films, short music-videos, advertising films, documentaries and other audiovisual works, expressed by means of sequence of related moving images, with or without incorporated sound, irrespective of the nature of the medium in which the said works are embodied.

2. The right of audiovisual adaptation

Article 109.

109.1. By contract of audiovisual adaptation of a Copyright work the author assigns to the film producer the exclusive right to transform his pre-existing work for the fixation and use of an audiovisual work.

109.2. It shall be deemed that, by making a contract of audiovisual adaptation, the author of a pre-existing work has assigned to the film producer, exclusively and without limitations, the right of transformation of the pre-existing work in an audiovisual work,

his economic rights and other rights of the author in this audiovisual work, its translations, its audiovisual transformations, unless otherwise provided by contract.

109.3. Regardless of the provisions of the preceding paragraph, the author of a pre-existing work shall retain:

- a). the exclusive right to further transformation of the audiovisual work into another artistic form;
- b). the exclusive right to a new audiovisual adaptation of the pre-existing work, however, only after the expiry of ten years from the making of the contract mentioned in the above paragraph (2);
- c). the right to claim equitable remuneration from the film producer for each rental of videograms of an audiovisual work.

109.4. Author of a pre-existing work cannot waive the rights mentioned in the preceding paragraph.

Article 110.

If the pre-existing work is created by two or more co-authors and only one of them has assigned his right to audiovisual adaptation, whereas the other has received his portion of the royalty, it shall be presumed that the second co-author has assigned his right.

Article 111.

For the further assignment of an acquired right to audiovisual adaptation no authorization of the author is needed in cases when the film producer is not capable of successfully completing the work.

Article 112.

112.1. The film producer has the right to use the title of the adapted work as the title of the audiovisual work, if not otherwise determined by contract.

112.2. The author of the pre-existing work has the right, upon his request, that his name and notice on the audiovisual adaptation of his work, be mentioned also on ads, cinema programs and other promotional materials.

Article 113.

The contract of audiovisual adaptation may contain a clause that the author of the pre-existing work may prior to the start of production inspect the screenplay.

3. Co-authors of an audiovisual work Article 114.

114.1. An audiovisual work is an unique wholeness of creative contributions of the co-authors, that have collaborated on its making, as well as a work in which contributions of other authors are incorporated, which are not considered as co-authors.

114.2. As co-authors of an audiovisual work shall be considered the author of the adaptation, the author of the screenplay, the author of the dialogue, the director of photography and the principal director.

114.3. If music is specifically created for use in the audiovisual work, the composer of music is co-author of that work.

114.4. If animation represents an essential element of the audiovisual work, the principal animator shall be considered as co-author of that work.

114.5. An animator and a composer of film music, who are not considered co-authors within the meaning of paragraphs (3) and (4) of this Article, a scenographer, a costumographer, a make-up artist, and an editor, are considered as authors of contributions to an audiovisual work.

4. Film production contract Article 115.

115.1. The relationships between the film producer and the authors of an audiovisual work and authors of contributions, as well as the relationships between the authors themselves, shall be regulated by contract of film production.

115.2. By a contract of film production the authors of an audiovisual work and authors of contributions oblige themselves to the film producer to co-operate in a creative way in the creation of an audiovisual work and to assign him their economic rights on that work, whereas the film producer obliges himself to pay them a royalty.

115.3. It shall be deemed that co-authors and authors of contributions, by making a film production contract, have assigned to the film producer, exclusively and without limitations, all their economic rights and other rights of the author to an audiovisual work, its translation, its audiovisual transformations, and photographs made in connection with this work, unless otherwise provided by contract.

115.4. Regardless of the provisions of the preceding paragraph:

- a). the co-authors retain the exclusive right to further transformation of an audiovisual work into another artistic form;
- b). the authors of contributions retain the right to use separately their contributions to an audiovisual work, unless the rights of the film producer are prejudiced thereby;
- c). the co-authors retain the right to claim equitable remuneration from the film producer for each rental of videograms of an audiovisual work.

115.5. Co-authors and authors of contributions cannot waive the rights mentioned in the preceding paragraph (4).

5. Royalty
Article 116.

116.1. Co-authors of an audiovisual work are entitled to a remuneration separately for each assigned economic right or other right of the author.

116.2. The film producer must inform the co-authors of an audiovisual work on the income gained, separately for each authorized form of exploitation of the work and at least once a year, and enable them have insight on the obtained revenues.

6. Completion of an audiovisual work
Article 117.

117.1. An audiovisual work shall be deemed completed when, according to the agreement between the principal director and the film producer, the first standard copy of a work (the final version) is finished.

117.2. Any changes to the first standard copy, mentioned in the preceding paragraph, shall be permissible only after previous agreement between the film producer and the principal director has been reached.

117.3. The first standard copy of the audiovisual work must not be destroyed.

117.4. When any of the co-authors or authors of contributions refuses to complete his contribution to the audiovisual work or if he is unable to continue his co-operation, he may not object to the use of his contribution already made for the purpose of completion of such work. Such author shall have respective rights as to the contribution he has already made.

7. Rescission of contract
Article 118.

118.1. If a film producer does not complete the audiovisual work within three years from the making of the film production contract, the co-authors may demand that the contract be rescinded, unless a different term was stipulated in the contract.

118.2. Besides the right of rescission, co-authors may claim damages if the film producer does not distribute the completed audiovisual work within one year from the time of the completion of the first standard copy, unless a different term was stipulated in the contract.

118.3. In the case mentioned in the preceding paragraphs (1) and (2) of this Article, co-authors and authors of contributions retain the right to remuneration.

8. Rights on photographs
Article 119.

It shall be deemed that the director of photography, by entering into a film production contract, has assigned to the film producer all rights to use of photographs, which were taken in the course of production of the audiovisual work.

9. Limitations on rights
Article 120.

The author of the original work who has assigned his right of audiovisual adaptation, as well as the co-authors of and authors of contributions to the audiovisual work do not have the right to withdrawal (Article 20) and the right of revocation of economic rights (Article 88).

II. COMPUTER PROGRAMS

1. Definition
Article 121.

121.1. Computer programs, within the meaning of this Law, are programs expressed in any form, including preparatory design materials for their creation.

121.2. Ideas and principles, which underlie any element of a computer program, including those which underlie its interfaces, are not protected.

2. Copyright on a computer program created in employment
or as a work made for hire
Article 122.

Where a computer program is created by an employee in the execution of his duties or following the instructions given by his employer, or where it is created by an author under a contract for a work made for hire, it shall be deemed that the economic rights and other rights of the author to such program are assigned to the employer or person ordering the work, exclusively and without limitations, unless otherwise provided by contract.

3. Rights of the author
Article 123.

123.1. The author of a computer program shall have the exclusive right to prohibit or authorize, in particular:

- a). to make permanent or temporary reproductions of a computer program by any means and in any form, in part or in whole. Insofar as loading, displaying, running, transmission or storage of the computer program necessitate its reproduction, the author's permission shall be necessary for such acts;
- b). to make translations, adaptations, arrangements and any other alterations of a computer program and the reproduction of the results thereof, without prejudice to the rights of the person who alters the program;
- c). to distribute the original of the computer program or copies thereof in any form, including its rental.

123.2. The author may assign the rights mentioned in the preceding paragraph to third persons also with a license agreement.

4. Limitations of author's rights Article 124.

124.1. Unless otherwise provided by contract, the acts referred to under items (a) and (b) of Paragraph 1, Article 123, including error corrections, may be done by the lawful acquirer of the program without the authorization of the author, if they are necessary for the use of the computer program in accordance with its intended purpose.

124.2. A person having the right to use a computer program may, without the authorization by the author, make a maximum of two back-up copies of it, if that is necessary for its use.

124.3. A person having the right to use a copy of a computer program shall be entitled, without the authorization by the author, to observe, study or test the functioning of a program in order to determine the ideas and principles that underlie any element of the program, if he does so while performing any of the acts of loading, displaying, running, transmitting or storing the program which he is entitled to do.

124.4. Provisions of this Law, relating to the right of withdrawal (Article 20), the right to special remuneration (Article 39) and to the private and other internal reproduction (Article 45), do not apply to computer programs.

124.5. Contractual stipulations contrary to the provisions of paragraphs (2) and (3) of this Article, shall be null and void.

5. Decompilation Article 125.

125.1. Reproduction of the code and translation of its form, within the meaning of items (a) and (b) of Paragraph 1, Article 123 of this Law, shall not require the authorization of the author, where such reproduction or translation is indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, or with hardware, provided that the following conditions are met:

- a). that these acts are performed by the licensee or by another authorized user, or on their behalf, by a person authorized to do so;
- b). that the information necessary to achieve interoperability has not been previously readily available to the persons referred to in preceding item (a);
- c). that these acts are confined only to those parts of the pre-existing program which are necessary to achieve interoperability.

125.2. The information obtained through the application of the preceding paragraph (1) may not be:

- a). used for goals other than to achieve the interoperability of the independently created computer program;
- b). given to others, except when necessary for the interoperability of the independently created computer program;
- c). used for the development, production or marketing of another computer program substantially similar in its expression, or for any other act that infringes Copyright.

125.3. The provisions of Paragraph 1 of this Article may not be interpreted in such way as to allow its application to be used in a manner that unreasonably prejudices legitimate interests of the author or conflicts with a normal use of the computer program.

125.4. Contractual stipulations contrary to the provision of this Article shall be null and void.

6. Special measures of protection Article 126.

As infringements of Copyright in a computer program shall be deemed also:

- a). any distribution, including the offering for use, of one or several copies of a computer program, knowing or having reason to believe, that it is an infringing copy; or
- b). the possession, for commercial purposes, of a copy of a computer program, knowing or having reason to believe, that it is an infringing copy.

7. Application of other legal provisions Article 127.

The provisions of this Law on computer programs shall be without prejudice to other legal provisions on computer programs, such as those concerning patents, trademarks, protection of semi-conductor products, unfair competition, trade secrets, or the law of contract.

III. COPYRIGHT WORKS IN EMPLOYMENT RELATIONS

Article 128.

128.1. When Copyright work is created by an employee in the execution of his duties or following the instructions given by his employer, it shall be deemed that the economic rights and other rights of the author to such work are exclusively and without limitations assigned to the employer for the period of ten years after the completion of the work, unless otherwise provided by the employment contract or other written act with the employer.

128.2. Regardless of the provisions of the preceding paragraph (1), the rights revert to the employee before the expiration of the mentioned term, in cases of the death of the employer or liquidation of an employer who is a legal person.

128.3. If the employer does not use the work or uses it in a negligible extent, the employed author has the right to demand the employer to assign him these rights, including the refund of his expenses.

128.4. If not otherwise concluded by contract, the employed author has the right to a respective additional remuneration from the employer, if his salary is in apparent disproportion with the profits earned or with the savings obtained by the use of his work .

Article 129

Irrespective of the provisions of the preceding Article 128 the employed author retains the exclusive right to include his work into a collection of his works or into a collection of all his works.

Article 130.

It shall be deemed that economic rights and other rights of the employed author to a database and to a collective work, created in the course of employment, are assigned exclusively and without limitations to the employer, unless otherwise provided by contract. Paragraph 4 of Article 107 of this law applies.

IV. WORKS CREATED IN SCHOOLS

Article 131.

Educational institutions have the right to include a Copyright work or its part, created by their scholars or students in collections of school works of their scholars and students and to reproduce and distribute such collections.

P A R T III.

RELATED RIGHTS

Chapter 1.

RIGHTS OF PERFORMERS

1. Performers

Article 132.

132.1. Performers are actors, singers, musicians, dancers, and other persons, who act, sing, deliver, declaim, play in, interpret, or otherwise perform Copyright works or expressions of folklore.

132.2. As performers within the meaning of the above paragraph, shall be deemed directors of theatrical presentations, conductors of orchestras, choir directors, sound editors, and variety and circus artists.

2. Moral rights of performers

Article 133.

133.1. Performers shall have the exclusive right:

- a). to have their name, pseudonym or mark indicated in connection with the use of their performance;
- b). to prohibit any distortion or any other tampering with their performances, as well as any use of their performances, if such tampering or use could be prejudicial to their honour and respect.

133.2. Where performances are given by ensembles of performers, the right under Item 1. of the preceding paragraph goes to such ensemble as a whole, to the artistic director, and to the soloists.

133.3. When assessing if a concrete form of use is prejudicial to the honour and respect of the performer, a reasonable degree of the performer's vulnerability is taken into account.

3. Economic rights of performers Article 134.

Performers shall have the exclusive right to authorize or prohibit:

- a). the fixation of their live performance;
- b). the reproduction of their performance on phonograms and videograms;
- c). the distribution of the phonograms or videograms containing their performance;
- d). the rental of phonograms or videograms containing their performance;
- e). the broadcasting of their live performance;
- f). the public transmission of their live performance;
- g). the adaptation of their fixed performance;
- h). the making available to the public of fixations of their performance.

4. The right to remuneration Article 135.

135.1. Performers shall have the right to participate in the remuneration received by the producer of a phonogram for the communication to the public of a phonogram published for commercial purposes with his performance.

135.2. Performers who have assigned to the producer of phonograms or to the film producer the rental right, retain the right to an equitable remuneration for the rental. The performers cannot waive this right.

135.3. The performers shall have the right to a portion of the special remuneration according to Article 39 (2) of this Law.

5. Presumption of assignment Article 136.

136.1. By entering into a contract for the film production, the performer shall be presumed to have assigned to the film producer, exclusively and without limitations, all economic rights in his performance, unless otherwise provided by contract.

136.2. For each economic right which was assigned according to the preceding paragraph, the performer shall retain the right to demand equitable remuneration from the film producer.

6. Completion of audiovisual work
Article 137.

When any of the performers refuses to complete his contribution to the audiovisual work or if he is unable to do so, he may not object to the use of his contribution already made for the purpose of completion of such work. Such performer shall have respective rights as to the contribution he has already made.

7. Representative of a group of performers
Article 138.

138.1. For the administering of the rights of an ensemble, the latter is represented by a person who is authorised by the majority of the members of the ensemble by a power in written form.

138.2. If conductors, soloists and main actors, who are not members of the ensemble, participate in the performance, for the administering of the rights also their authorization is necessary, if not otherwise provided by contract between the ensemble and them.

138.3. Provisions of the above two paragraphs shall not apply to conductors, soloists, and directors of theatrical performances.

8. Performance given in the course of employment
Article 139.

Where a performance is given by an employee in the execution of his duties or following the instructions given by his employer in the course of employment, the relationships with respect to such performance the provisions of this Law concerning the author of a work created in employment relations apply.

9. Term of protection
Article 140.

140.1. Economic rights of performers shall run for 50 years after the date of the performance. If the fixation of performance was lawfully published or lawfully communicated to the public within this period, the rights of a performer shall run for 50 years from either the first publication or from the first communication, whichever occurred earlier.

140.2. Moral rights of performers shall run without limitations.

Chapter 2.
RIGHTS OF PRODUCERS OF PHONOGRAMS

1. Definitions
Article 141.

141.1. Producer of a phonogram is a person or legal entity, who or which takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds, or the representations of sounds. A person whose name or firm, pseudonym or mark appears in the customary manner on the copy of a certain phonogram or is so indicated at the time of disclosure of that phonogram, shall be presumed to be the producer of that phonogram, until proved otherwise.

141.2. Phonogram is a fixation of the sounds of a performance or other sounds, or the representation of sounds, other than in the form of a fixation incorporated in an audiovisual work.

141.3. Fixation is an embodiment of sounds or of representations thereof on a medium, from which they can be perceived, reproduced or communicated through a device.

2. Rights of producers of phonograms
Article 142.

Producers of phonograms shall have the exclusive right to authorize or prohibit:

- a). the reproduction of their phonograms;
- b). the distribution of the phonograms;
- c). the rental of their phonograms;
- d). the making available to the public of their phonograms;
- e). the adaptation of their phonograms.

3. Right to remuneration for public communication of phonograms
Article 143.

143.1. Producers of phonograms shall have the right to participate in the remuneration for the communication to the public of a phonogram published for commercial purposes.

143.2. The producer of phonograms shall pay half the remuneration mentioned in the preceding paragraph, to the performers whose performances are fixed on the phonograms used, unless different shares are determined by the contract between the producers of phonograms and the performers.

143.3. For the purposes of this Article, phonograms made available to the public shall be considered as published for commercial purposes.

4. Right to a special remuneration
Article 144.

The producer of phonograms shall have the right to a portion of the special remuneration according to Article 39 (1) of this Law.

5. Term of protection
Article 145.

The rights of the producer of phonograms shall last for 50 years after the fixation is made. If the phonogram has been lawfully published within this period, the said rights shall last 50 years from such first publication. If no lawful publication has taken place, but the phonogram has been lawfully communicated to the public within this period, the said rights shall last 50 years from such first lawful communication to the public.

Chapter 3.
RIGHTS OF FILM PRODUCERS

1. Definitions
Article 146.

146.1. A film producer is a natural person or a legal entity who with his initiate and on his account fixes for the first time an audiovisual work or of a sequence of moving images. A person whose name or firm, pseudonym or mark appears in the customary manner on the copy of a certain videogram or is so indicated at the time of disclosure of that videogram, shall be presumed to be the film producer of that videogram, until proved otherwise.

146.2. A videogram is a fixed sequence of moving images with or without sound on a video carrier or an audio or video carrier.

2. Rights of film producers
Article 147.

Film producers shall have the exclusive right to authorize or prohibit:

- a). the reproduction of their videograms;
- b). the distribution of the videograms;
- c). the rental of their videograms;
- d). the presenting of their videograms;
- e). the making available to the public of their videograms.

3. Right to a special remuneration
Article 148.

Film producers shall have the right to a portion of the special remuneration according to Article 39 (2) of this Law.

4. Terms of protection
Article 149.

The rights of film producers shall run for 50 years from the time of the fixation. If a videogram is lawfully published or lawfully communicated to the public within this period, the rights of a film producer shall run for 50 years from the date of first publication or first communication to the public, whichever is the earlier.

Chapter 4.
RIGHTS OF BROADCASTERS

1. Definition
Article 150.

A broadcaster within the meaning of this Chapter is a legal entity, which first takes the initiative and has the responsibility of producing a broadcast. A person whose name or firm, pseudonym or mark appears in the customary manner on the copy of a certain broadcast or is so indicated at the time of disclosure of that broadcast, shall be presumed to be the broadcaster of that broadcast, until proved otherwise.

2. Rights of a broadcaster
Article 151.

A broadcaster shall have the exclusive right to authorize or prohibit:

- a). the fixation of its broadcasts;
- b). the reproduction of the fixations of its broadcasts;
- c). the rebroadcasting of its broadcasts;
- d). the public secondary emission of its broadcasts, if such communication is made in places accessible to the public against payment of an admission;
- e). the making available to the public of its broadcasts.

3. Term of protection
Article 152.

The rights of broadcasters shall run for 50 years from the date of the first broadcasting of their broadcast.

Chapter 5
RIGHTS OF MAKERS OF DATABASES

1. Definition
Article 153.

153.1. A database shall mean a collection of independent works, data or other materials in any form, arranged in a systematic or methodical way and individually accessible by electronic or other means, whereby either the obtaining, verification or presentation of its contents demands a qualitatively and/or quantitatively substantial investment.

153.2. The maker of a database is a person or legal entity, who or which first takes the initiative and has the responsibility of the substantial investment within the meaning of the preceding paragraph. A person whose name or firm, pseudonym or mark appears in the customary manner on the copy of a certain database or is so indicated at the time of disclosure of that database, shall be presumed to be the producer of that database, until proved otherwise.

153.3. The protection of a database or its contents shall apply irrespective of their protection by Copyright or by other rights. The inclusion of a material into a database and its use shall be without prejudice to rights existing in respect of that material.

2. Scope of protection Article 154.

154.1. Protection of a database under this Chapter shall apply to:

- a). the whole contents of a database,
- b). every qualitatively and/or quantitatively substantial part of its contents,
- c). qualitatively and/or quantitatively insubstantial parts of its contents, when they are used repeatedly and systematically, which conflicts with a normal exploitation of that database or which unreasonably prejudices the legitimate interests of the maker of the database.

154.2. Protection under this Chapter shall not apply to computer programs used in the making or operation of electronic databases.

3. Rights of makers of databases Article 155.

Makers of databases shall have the exclusive right to authorize or prohibit:

- a). to reproduce his database,
- b). to distribute copies of his database,
- c). to rent copies of his database,
- d). to make available to the public his database,
- e). to other forms of communication to the public of his database.

4. Rights and obligations of lawful users Article 156.

156.1. A lawful user of a disclosed database or a copy thereof shall free to use qualitatively and/or quantitatively insubstantial parts of its contents for any purposes whatsoever. Where the user is authorized to use only a part of the database, this Article shall apply only to that part.

156.2. A lawful user of a disclosed database or a copy thereof may not perform acts which conflict with a normal exploitation of that database or which unreasonably prejudice the legitimate interests of the maker of the database.

156.3. A lawful user of a disclosed database or a copy thereof may not cause prejudice to the Copyright or related rights in respect of the works or subject matter contained in that database.

156.4. Any contractual provision contrary to this Article shall be null and void.

5. Employment and contracts for hire
Article 157.

Where a database is made by an employee in the execution of his duties or following the instructions given by his employer, or where it is made by a person under a contract for hire, it shall be deemed that the exclusive rights to such database are exclusively and without limitations assigned to the employer or to the ordering party, unless otherwise provided by contract.

6. Limitations on rights
Article 158.

A lawful user of a disclosed database may freely use a substantial part of its contents:

- a). in the case of private or other internal use of a non-electronic database;
- b). in the case of use for the purposes of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved;
- c). for the purposes of public security or to ensure the proper performance or reporting of administrative, parliamentary or judicial proceedings

7. Term of protection
Article 159.

159.1. The rights of makers of databases shall last for 15 years after the completion of the making of the database. If the database is lawfully disclosed within this period, the rights shall last 15 years from such first disclosure.

159.2. Any qualitatively and/or quantitatively substantial change to the contents of a database, which results in a qualitatively and/or quantitatively substantial new investment, shall qualify the database resulting from that investment for a new term of protection. A substantial change of contents includes also the accumulation of successive additions, deletions or alterations of the database.

Chapter 6.
RIGHTS OF PUBLISHERS

1. Right to a portion on a special remuneration
Article 160.

160.1. Publishers shall have the right to a portion of the remuneration according to Article 39 (3) of this Law.

160.2. The right mentioned in the preceding paragraph shall run for 50 years from the lawful publication of the work.

2. Unpublished works in public domain
Article 161.

161.1. A person who for the first time lawfully publishes or communicates to the public a previously unpublished work, which falls under public domain, shall enjoy the legal protection equal to that granted by economic rights and other rights of the author under this Law.

161.2. The rights mentioned in the preceding paragraph shall run for 25 years from the date of the first lawful publication or communication to the public of the work.

3. Scientific editions
Article 162.

162.1. A person who prepares the edition of a work in which the Copyright has expired, which is the result of a scientific endeavours and which is essentially different from known editions of this work, shall enjoy the legal protection equal to that granted by economic rights and other rights of the author under this Law (through the rhyme, split and other editorial characteristics).

162.2. The rights mentioned in the preceding paragraph shall run for 30 years from the date of the first lawful publication of the work.

Part IV
ADMINISTRATION AND MANAGEMENT OF RIGHTS

Chapter I
General Provisions

Article 163.

163.1. The author may exercise his/her author's rights personally or through an agent.

163.2. The exercise of author's rights may mean through administration and/or through management.

163.3. Authors' rights may be managed individually, that is separately for each copyright work; or, when this Law so provides, they may be managed collectively, that is for a number of works of several authors at the same time.

Article 164.
Management through an agent

164.1. Management of authors' rights through an agent includes:

- a. representing authors in their legal transactions and relations with natural persons or legal entities who use or commission their works, including collection of royalties or other remunerations;
- b. representing authors in legal proceedings before courts or other bodies, for the purpose of protecting their authors' rights.

164.2. When an author enforces his rights before a court or another governmental body through an agent, who is a natural or legal person, such agent is entitled to claim a fee for his services and reimbursement of expenses incurred in connection with these services according to the agent's schedule of fees, provided that he fulfils the conditions for the representation before courts or other governmental bodies or, where the agent is a legal person, that an authorized employee of such agent fulfills those conditions.

Article 165.

Scope of collective administration

Collective administration of copyright or related rights includes:

- a. non-exclusive assignment of rights on certain categories of works or subject matter of related rights to users;
- b. collection and recovery of remunerations for the use of copyrighted material;
- c. distribution of collected remunerations to right holders;
- d. exercise of control over contractual and statutory obligations of users; and
- e. enforcement of protection of rights before courts and other jurisdictions.

Article 166.

Sphere of activity of collective administration

Collective administration of rights may exist with respect to, in particular:

- a. communication to the public of non-theatrical musical works and literary works (small rights);
- b. resale of originals of works of fine art (*droits de suite*);
- c. public lending of originals or copies of works;
- d. remuneration for private or other internal use and photocopying beyond the scope of Article 45 of this Law;
- e. retransmission of copyrighted material, except in respect of broadcasters' own transmissions, irrespective of whether the rights concerned are their own or have been assigned to them by other right holders;
- f. reproduction of copyrighted material on phonograms and videograms, including mechanical rights;
- g. rental of phonograms and videograms;
- h. reproduction of copyrighted material in readers and text books for the purpose of teaching;
- i. reprinting of articles on current topics in daily or periodical publications;
- j. reproduction of works of fine art, photographs, plans, and drawings in daily or periodical publications;
- k. reprinting of parts of works or short literary works in daily or periodical publications;

- n. reproduction and public communication of copyrighted material in commercials, lasting no more than sixty seconds; and
- m. reproduction of works in generally accessible places for commercial purposes.

Article 167.

Provisions of this Part relating to copyright, shall apply *mutatis mutandis* to related rights.

Article 168.

168.1. A right holder may demand that persons, who are in any way connected with the infringement of rights recognized by this Law (manufacturers, printers, importers, suppliers, or possessors of copies or means with which the right was infringed), provide information and produce documents in connection with the infringement, immediately upon demand.

168.2. The duty mentioned in the foregoing paragraph shall not apply, when conditions exist that would allow a witness in any civil proceedings to refuse to testify or to answer to a particular question.

168.3. If the persons mentioned in the paragraph (1) of this Article fail to give the required information or produce the documents in their possession, they are liable for damages that may be caused by their failure to comply.

Chapter II Collective Management

Article 169.

Establishment of the Office for Intellectual Property

169.1. The Government of Kosovo shall establish an Office for Intellectual Property Rights (hereinafter, "the Office") within eighteen months of the promulgation of this Law.

169.2. Pending the establishment of the Office, the Ministry of Culture shall perform the administrative roles assigned to the Office under this Law. The Ministry of Culture shall pass regulations to carry out these provisions within six months of the promulgation of this Law.

Article 170.

Collective Administration of Copyrights

170.1. The activity of administering copyrights may, with the certification of the Office, be carried out by associations of authors and other copyright holders as well as by other legal entities specialized for the administration of copyrights.

170.2. The administration of copyright carried out by the association of authors or other specialized legal entity referred to in Paragraph 1, with the exception of rights referred to in Paragraph 3, shall require the power of attorney given by the author or other copyright proprietor.

170.3. Copyrights in public performances of non-performing musical or literary works (*petites droits*) may be administered by the association of authors even without the power of attorney of the author or other copyright proprietor.

170.4. The Office shall certify associations referred to in Paragraph 1 which comply with the professional criteria established by the Office.

170.5. If the association of authors or other legal entity specialized for the collective administration of copyrights ceases to meet the prescribed criteria for carrying out such activity, the Office shall revoke the given certification.

Article 171.

Certification of collective associations

The Office shall grant certification referred to in Article 170.1 upon written request of a legal entity. The request shall be accompanied by:

- a. a statute which defines bodies, and authority thereof, for the execution of tasks of a collective association referred to in Article 170;
- b. indication of persons who are entitled to represent the collective association;
- c. written authorization from the authors who entrusted the collective association with the management of authors' rights in their works gathered into a repertoire;
- d. business plan; and
- e. such other documentation as the Office shall require, to demonstrate that the collective association meets the criteria established by the Office under Article 173 of this Law.

Article 172.

Non-certification of collective associations

172.1. The Office shall not issue or renew certification if:

- a. the statute of the collective association does not comply with the provisions of this Law; or
- b. the collective association does not respect the financial and reporting requirements set out in Articles 176-181 of this Law.

172.2. The Office shall revoke certification for collective management of authors' rights if circumstances occur which would have been a cause for the refusal of the certification, or if the collective association seriously or repeatedly violates the provisions of this Law. Prior to revocation, the competent authority shall notify the collective association of the reasons and give it a time limit of no less than 30 days to remove the cause for revocation. The revocation shall become effective on the 30th day following its publication.

Article 173.

173.1. In the proceedings for the grant of certification the Law regulating general administrative procedure shall apply. There shall be no appeal against a decision or order issued by the Office, however, an action in the administrative litigation proceedings may be filed with the competent Court.

173.2. Notification of the final decision concerning the certification shall be published.

Article 174.

174.1. A collective association referred to in Article 170.1 does not require special author's power of attorney for the safeguarding the exercise of copyrights referred to in Article 170.3 before courts and other bodies.

174.2. A collective association referred to in Article 170.1 may initiate and conduct the dispute referred to in Paragraph 1 on its own behalf but it shall be obliged to inform the author on the exercised rights.

Article 175.

175.1. Associations that administer economic rights on a collective basis shall perform the following functions:

- a. agree with the users of works regarding the amount of remuneration, procedures for payment and other provisions with which licenses are issued;
- b. issue licenses to users for exercising the rights, which are administered by the particular association, and collect the remuneration as specified in the licenses;
- c. specify just remuneration in cases when the organization has an obligation to administer the economic rights of the holders of copyright and related rights on the basis of law, and collect the specified remuneration;
- d. collect remuneration for the resale of works of art, for the reproduction of works for personal use, and for other types of use of works in accordance with regulatory enactments; and
- e. apportion the collected remuneration and pay it to the holders of copyright and of related rights.

175.2. Other functions of associations that administer economic rights on a collective basis shall be specified by the contract, which the relevant association and the holder of the copyright or of related rights have entered into.

Article 176.

Duties of collective associations

176.1. Associations that administer economic rights on a collective basis shall in the course of their activities represent the rights and lawful interests of holders of related rights in accordance with contracts entered into with respect to the use of works. Such associations shall perform the following duties:

- a. when paying out remuneration to holders of copyright and of related rights, provide a report to authors of the use of a work, performance, and other activities; and
- b. after making the deductions specified in Paragraph (2) of this Article, apportion the collected remuneration amounts between the holders of copyright of related rights represented by such associations in proportion to the use of their works, performances and other activities and regularly make payments.

176.2. Associations that administer economic rights on a collective basis shall cover, from the remuneration amounts collected in accordance with contracts entered into, the actual expenditures associated with the collection, apportionment and payment of remuneration.

176.3. Associations that administer economic rights on a collective basis may develop special funds in the interests of holders of copyright and of related rights, by making deductions from the collected remuneration amounts in accordance with the goals and tasks of the association that administers economic rights on a collective basis.

176.4. Holders of copyright and related rights, who have not authorized associations to collect the remuneration specified in Article 175 of this Law, have the right to require the association to pay the remuneration due them in accordance with the apportionment of the remuneration that has been made, as well as to exclude their works or performance from the licenses which such associations issue to the users of works.

176.5. Associations that administer economic rights on a collective basis shall publish and distribute to their members their annual reports, as well as the amount of remuneration in cases when the association has an obligation to administer the economic rights of the holders of copyright and related rights on the basis of law.

176.6. At least twenty-five per cent (25%) of the members of a collective association may demand that one or more independent experts inspect the operation of the society.

Article 177.

Reciprocal agreements with foreign associations

Collective associations shall enter into reciprocal agreements with the corresponding associations in other countries in order to assure collective administration of copyright and related rights of Kosovo right holders, as well as of foreign right holders in Kosovo.

Article 178.

Supervision of collective associations

178.1. The Office shall supervise the compliance to the provisions of the Law of the activities of organizations that administer economic rights on a collective basis particularly supervising whether:

- a. the provisions regarding collection and apportionment of remuneration are fair;
- b. the administration expenditures are justified;
- c. the apportionment of remuneration and payments occur in accordance with the procedures specified;
- d. the issuance of a license to a user is not denied without substantiated basis; and
- e. the collective associations have appropriate reciprocal agreements with foreign associations, as required under Article 177 of this Law.

178.2. Organizations that administer economic rights on a collective basis shall submit to the Office their articles of association, the annual reports on their activities, as well as provide information that is necessary for the Office for deciding the issues within its competence.

178.3. To ensure supervision, the Office shall establish an advisory board consisting of representatives of interested organizations, experts, and holders of copyright and related rights.

Article 179. Annual reports

179.1. The statute of a collective association shall contain the provision that within three months following the end of each accounting year, the collective association shall adopt or acquire:

- a. annual reports of administrative and supervisory bodies on collected remunerations, distribution thereof, operation of the collective association and implementation of inclusive agreements and agreements with foreign collective associations;
- b. the report of auditing company on the auditing of financial statements and operation of the collective association in the accounting year, together with the opinion on regularity of the operation and its conformity with laws and other regulations;
- c. the opinion of administrative and supervisory bodies on the report and opinion referred to in the foregoing item;
- d. measures in the event of the auditor's opinion on its irregularity;
- e. proposal for the financing plan and operating costs of the collective association for the coming year.

179.2. Provisions of this Article shall be without prejudice to obligations of collective associations which they have with respect to financial reports and audits pursuant to other laws and regulations.

Article 180.

The Office may, at all times, demand from a collective association reports on business matters and inspection into their books and other business papers to the extent necessary, following a reasoned and detailed written request to examine the issue specified in the request.

Article 181.

181.1. Collective associations shall inform the Office of any change concerning the persons entitled by law or statutes to represent them.

181.2. Collective associations shall submit to the Office, in particular:

- a. any amendment to the statute;
- b. inclusive agreements with associations of users;
- c. tariffs and any alterations thereof;
- d. agreements with foreign collective associations;
- e. resolutions of the assembly;
- f. annual reports and auditors' reports.

Article 182.

Mediation

182.1. Collective associations and representatives of users may propose, on the basis of a mediation agreement, mediation in a dispute:

- a. concerning conclusion of an inclusive agreement;
- b. concerning conclusion of an agreement for cable retransmission of broadcasts;
- c. concerning:
 - i. use for the benefit of people with a disability;
 - ii. use for the purpose of teaching;
 - iii. private or other internal reproduction;
 - iv. performance of official proceedings; and
 - v. ephemeral recordings made by broadcasters.

182.2. The mediator shall be independent, impartial and not bound by instructions.

182.3. The mediator shall ensure that parties conduct negotiations in good faith and do not hinder them without valid justification.

182.4. The mediator may submit proposal to parties concerning the settlement of the dispute. The settlement proposal shall be deemed to have been accepted if the parties conclude an inclusive agreement or agreement for retransmission within three months following the receipt of the proposal.

182.5. Confidentiality shall be ensured in the mediation procedure.

182.6. The parties shall jointly choose the mediator from the list of mediators appointed by the Office.

182.7. The Office shall provide administrative assistance to the mediator.

182.8. The parties shall remunerate the mediator for his work.

182.9. The Office shall define, in greater detail, the mediation proceeding, as well as the degree and kind of education of the mediator, and other conditions that he has to fulfill.

P A R T V.
PROTECTION OF RIGHTS

Chapter 1.
GENERAL PROVISIONS

1. Persons entitled to protection
Article 183.

183.1. The person whose rights under this Law were infringed (the right holder), may demand the protection of his rights depending on the kind of infringement and demand the corresponding claim.

183.2. The same protection may be claimed by a right holder, when there is apparent danger that an infringement of the rights under this Law will occur.

183.3. Protection under other laws remains intact.

2. Joinder of parties
Article 184.

184.1. When there are more right holders of a right granted by this Law, each of them may claim the protection of this right in its entirety.

184.2. When there are more infringers of a right granted by this Law, each of them is liable for total damages.

3. Protection of technological measures
Article 185.

185.1. It shall be deemed that a person infringes the exclusive rights granted by this Law, when it commits any act for the circumvention of effective technological measures.

185.2. It shall be deemed that a person infringes the exclusive rights granted by this Law, when it manufacture, importation for distribution, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of a technology, device or computer program, or the unauthorized provision of services, which:

- a). are advertised or marketed for the purpose of circumvention of effective technological measures, or
- b). have a significant commercial purpose or use only from the aspect of circumvention of effective technological measures, or
- c). are primarily designed, produced, adapted or performed for the purpose of the circumvention of effective technological measures.

185.3. Technological measures as mentioned in the preceding paragraph, mean any technology, computer program or other measure that are designed to, in the normal course of their operation, prevent or inhibit the infringement of rights under this Law. These measures shall be deemed effective, where the access to or use of a Copyright work or subject matter of related rights is controlled through a protection process which achieves the protection goal in an operational and reliable manner and with the authorization of the rightholders.

185.4. This Article shall apply mutatis mutandis also to any technology, device or computer program, by which electronic rights-management information is removed or altered (Article 186).

4. Protection of rights-management information Article 186.

186.1. It shall be deemed that a person infringes the exclusive rights granted by this Law, when it commits any of the following acts by which it induces, enables, facilitates or conceals the infringements of the rights under this Law:

- a). the removal or alteration of any electronic rights-management information;
- b). the reproduction, distribution, importation for distribution, rental or communication to the public of a protected matter, where electronic rights-management information has been removed or altered without authority.

186.2. Rights-management information as mentioned in the preceding paragraph, means any information provided by rightholders on the identification of the subject matter of rights, the author, the right holder, the terms and conditions for use, and their relevant numbers and codes, when they are indicated on a copy of a Copyright work or subject matter of related rights or when they appear in connection with their communication to the public.

Chapter 2 JUDICIAL PROTECTION

1. Claims Article 187.

187.1. When the exclusive rights granted by this Law were infringed, the right holder may claim:

- a). the statement of the infringement of rights;
- b). that the infringer is prohibited from doing certain preparatory act, the infringement itself, and the repeating of infringements;
- c). that the infringer rectifies the situation caused by the infringement, including the withdrawal of the copies from the market at the infringer's expense;
- d). that the unlawfully made copies, which were distributed or intended for distribution, their packaging, stencils, negatives, plates, melds be destroyed or altered;
- e). that the tools and devices, which were used or the sole or prevalent purpose of which is to make the infringements mentioned in this Law possible, and which are owned by the infringer, be destroyed or altered;
- f). the recovery of material damages (actual damages and lost profits) or special recovery of damages;
- g). the recovery of non-material damages due to the infringement of moral rights of the author or performer;
- h). that the judgement be published in public media at the infringer's expense.

187.2. Provisions of items (d) and (e) of the preceding paragraph shall not apply to architectural buildings, unless the destruction or alteration of a building is justified by the circumstances of the case.

187.3. Instead of claims mentioned in items (d) and (e) of paragraph (1) of this Article, the right holder may claim that the infringer or owner surrenders to him the copies or means enumerated therein, against a reimbursement of the costs, which cannot exceed the cost for their production or production price, with a deduction of their amortisation.

2. Special recovery of damages Article 188.

188.1. In place of the recovery of material damages, the rightholder may claim the infringer to pass to him the overall profits he had gain through the infringement.

188.2. In place of the recovery of material damages, the rightholder may claim the payment of a remuneration he would have been obliged to pay for legal use, increased by up to double. If the infringement was committed for commercial gain, this remuneration can be increased by up to triple.

188.3. In case that the actual damage is in excess of the amount of damages mentioned in the preceding paragraphs of this Article, the right holder has a right to claim the difference to full actual damages.

3. Monetary satisfaction for non-material damage Article 189.

The author or a performer have the right to an equitable monetary satisfaction for the infringement of the moral rights protected by this Law.

4. Precautionary measures Article 190.

190.1. If the right holder shows probable grounds for belief that his exclusive right under this Law is being infringed and that there is a risk for the recovery of damages, the court may, on application of the right holder, order the provisional confiscation of the infringer's assets, including the blocking of his bank account and of his other assets.

190.2. This measure includes the power of the court to ask for and seize financial banking or commercial documents of the infringer.

190.3. If there is a demonstrable risk that the protection under the preceding paragraphs (1) and (2) may not be effective at a later time, the court may order and execute such measures without prior notification and hearing of the other party. (*inaudita altera parte*)

190.4. The proceedings for the adoption of provisional measures under this Article are summary, in 3 days after lodging of the request at the latest.

5. Provisional measures
Article 191.

191.1. If the right holder shows probable grounds for belief that his exclusive right under this Law is being infringed, the court may, on application of the right holder, order provisional measures:

- a). seizure, exclusion from circulation, of copies, means, equipment for the infringement, and relevant documents;
- b). interdiction of imminent infringements or of infringements already commenced.

191.2. If there is a demonstrable risk that the provisional measures mentioned in the above paragraph (1) may not be effective at a later time, the court may order and execute such measures without prior notification and hearing of the other party. (*inaudita altera parte*)

191.3. The proceedings for the adoption of provisional measures are summary, in 7 days after lodging of the request at the latest.

191.4. In cases of claims for payment of remuneration, the court shall adopt a provisional measure prohibiting the further use of the protected matter.

191.5. The provisions of the Code of Execution Procedure shall apply to the proceedings for the adoption of provisional measures, unless otherwise provided by this Law.

6. Preservation of evidence
Article 192.

192.1. If the right holder shows probable grounds for belief that his exclusive right under this Law is being infringed, and that there is a demonstrable risk that evidence of such infringement will be destroyed or that it will be impossible to obtain such evidence at a later time, the court may, on application of the right holder, take such evidence.

192.2. The taking of evidence, according to the preceding paragraph may include the inspection of places, business records, inventory, databases, etc. as well as seizure of documents, examination of witnesses and experts.

192.3. If there is a demonstrable risk that the preservation of evidence mentioned in the above paragraph (2) may not be effective at a later time, the court may order and execute such preservation of evidence without prior notification and hearing of the other party. (*inaudita altera parte*).

192.4. Court order with which the application for the preservation of evidence was granted, shall be served on the adverse party at the time when the actual taking of evidence begins or, when this is impossible, as soon as the service becomes possible.

192.5. The proceedings for the adoption of provisional measures are summary, in 7 days after lodging of the request at the latest.

7. Speed of proceedings
Article 193.

The proceedings for infringements of Copyright and related rights shall be summary. The Court shall open the first hearing in three months after receipt of the claim at the latest.

8. Venue
Article 194.

The exclusive venue to decide in disputes on Copyright and related rights shall be with the District Court of Prishtina.

Chapter 3
MEASURES FOR THE ENFORCEMENT OF PROTECTION

1. Duty to provide information
Article 195.

195.1. The Court may order a person who is in any way connected with the infringement of rights recognized by this Law (printer, manufacturer, importers, suppliers, owner of copies of protected matter etc), to immediately provide information and produce documents in connection with the infringement.

195.2. The duty mentioned in the preceding paragraph shall not apply, when conditions exist that would allow a witness to refuse to testify.

195.3. If the persons mentioned in the paragraph (1) of this Article fail to fulfil their obligation, they are liable for damages that may be caused by their failure to comply.

2. Border measures
Article 196.

196.1. If the right holder shows sufficient grounds for suspecting that his exclusive right under this Law is likely to be infringed by the importation of certain goods to Kosovo, the custom authorities may, on application of the right holder, order:

- a). that the right holder or his agent may inspect such goods and the accompanying documentation;
- b). that the release of such goods be suspended or they be detained.

196.2. In the application mentioned in the preceding paragraph, the right holder shall be required to provide detailed description of the goods, as well as adequate evidence of his exclusive rights and their probable infringement.

196.3. Customs authorities must promptly notify the importer and the recipient of the goods of the adopted measures.

196.4. Customs authorities shall revoke the adopted measures if they within 10 working days are not informed that the right holder:

- a). has filed to court a request for provisional measures or preservation of evidence; or
- b). has filed a suit or initiated some other proceedings, leading to a decision on the merits of the case; or
- c). produced a written agreement with the declarant, the holder or the owner of the goods to abandon them for destruction.

196.5. In appropriate cases, the customs authorities may extend the term of the preceding Paragraph (4) for a maximum of additional 10 working days.

196.6. In the case of perishable goods the term referred to in paragraph 4 shall be three working days and cannot be extended.

196.7. If the rightholder and the importer or recipient of the goods, reach a settlement within the terms of this Article, the Customs authorities shall proceed according to such settlement.

196.8. Where customs authorities have sufficient grounds for suspecting that goods infringe an exclusive right under this Law, they may suspend the release of the goods or detain them for a period of three working days before an application under Paragraph 1 of this Article has been lodged.

3. Register of Copyright works and subject matter of related rights Article 197.

197.1. To preserve the evidence or for other reasons, the holders of rights granted by this Law, may deposit the copies of their works or subject matters of related rights to the Office.

197.2. The samples of their works or subject matters of related rights, which are deposited must in the form of a written document (handwriting, printed text, sheet music), audio, video or audiovisual medium or in digital format.

197.3. The register shall be kept for each category of works or subject matters of related rights. The register is public.

197.4. When depositing and entering into the records of works or subject matters of related rights, the rightholder must provide real and complete data on his works or subject matters of related rights.

197.5. Until proven otherwise, it shall be presumed that the data in the records are true.

197.6. A conscious person who has violated the Copyright or related right of another, relying upon the accuracy of data in the register, shall not be liable for such violation.

197.7. The entering into the records and depositing of works or subject matters of related rights does not affect in any way the existence and protection of rights under this Law.

197.8. The contents of the records in paragraph 3 of this Article and the conditions for the works or subject matters of related rights to be fulfilled for depositing shall be defined in a regulation for the implementation of this Article.

4. Customs Article 198.

198.1. Where the manufacture or distribution of copies infringes copyright or any other right protected by this Law those copies, shall be subject, at the request of the holder of the rights and against his security, to seizure by the customs authorities, on import or export, in those cases where the infringement is obvious. This provision shall apply in trade with other States only insofar as controls are carried out by the customs authorities.

198.2. Where the customs authorities order a seizure, they shall advise the person entitled to dispose and also the petitioner thereof without delay. The origin, quantity and place of storage of the copies, together with the name and address of the person entitled to dispose, shall be communicated to the petitioner. The petitioner shall be given the opportunity to inspect the copies where such inspection does not constitute a breach of commercial or trade secrecy.

198.3. Where no opposition to the seizure is made, at the latest within two weeks of service of the notification, the customs authorities shall order confiscation of the seized copies.

198.4. If the person entitled to dispose opposes seizure, the customs authorities shall inform the petitioner thereof without delay. The petitioner shall be required to declare to the customs authorities without delay, whether he maintains the request in respect of the seized copies:

- a. If the petitioner withdraws his request, the customs authorities shall lift the seizure without delay.
- b. If the petitioner maintains his request and submits an executable court decision ordering the impounding of the seized copies or limitation of the right to dispose, the customs authorities shall take the necessary measures.
- c. Where neither of the cases referred to in items (a) and (b) are applicable, the customs authorities shall lift the seizure on the expiry of two weeks after service of the notification.

198.5. Where the seizure proves to have been unjustified from the beginning and if the petitioner has maintained the request in respect of the seized copies or has not made a declaration without delay, he shall be required to compensate the damage.

198.6. The cost of official acts related to the request shall be charged to the petitioner.

PART VI CRIMINAL PROVISIONS

Chapter 1. CRIMINAL OFFENCES

1. Infringement of moral rights of authors and performers Article 199.

199.1. Whoever, under his own name, or somebody else's name discloses or otherwise communicates to the public a copyright work or a performance of another, in whole or in part, shall be punished for a criminal offence for not less than three months to up to three years.

199.2. Whoever during use intentionally fails to state the name, pseudonym or mark of the author or performer, when this is required by this Law, shall be punished for a criminal offence by fine or imprisonment for up to one year.

199.3. Whoever distorts, mutilates or otherwise harms a copyright work or a performance of another, and discloses it in such form or otherwise communicates it in such form to the public, or whoever performs or otherwise communicates to the public a Copyright work or a performance in an indecent manner, under the condition that any of these acts is prejudicial to the honour and reputation of the author or performer, shall be punished for a criminal offence by fine or imprisonment for up to one year.

2. Unauthorized use of a Copyright work or subject matter of related rights Article 200.

200.1. Whoever uses without authorization a Copyright work or subject matter of related rights, shall be punished for a criminal offence by imprisonment for up to three years.

200.2. If, by the act described in paragraph (1) of this Article, the perpetrator obtained for himself or for another person from 10.000 € to 50.000 €, he or she shall be punished by imprisonment for not less than three months to five years.

200.3. If, by the act described in paragraph (1) of this Article, the perpetrator obtained for himself or for another person more than 50.000 € he or she shall be punished for a criminal offence by imprisonment for not less than six months to eight years.

3. Circumvention of technological measures Article 201.

Whoever commits any act of circumvention of any effective technological protection measure (Article 185) or whoever commits any act of removal or alteration of electronic rights-management information (Article 186), shall be punished for a criminal offence by imprisonment for up to three years.

4. Destructing or damaging of first standard film copy Article 202.

Whoever destroys, damages or renders non-applicable the first standard film copy, shall be punished for a criminal offence by fine or imprisonment for up to six months.

5. Refusal to deliver information Article 203.

Whoever refuses to deliver to the Court information or does not allow insight of the documents, which all are related to the infringement of Copyright or related rights (Article 199), shall be punished for a criminal offence by fine or imprisonment for up to six months.

6. Criminal prosecution Article 204.

The criminal offences as described in Article 199 of this Law shall be prosecuted on private claim, the criminal offences as described in Articles 200 to 203 of this Law shall be prosecuted *ex officio*.

7. Confiscation
Article 205.

The articles which were produced by commitment of the criminal offences as described in Articles 200 and 201 of this Law shall be confiscated.

8. Publication of the judgement
Article 206.

206.1. Upon request of the prosecutor or the injured party and if justified interest is proven, the Court shall order the publication of the judgement.

206.2. The extent of the judgement, the manner and the type of publication shall be determined by Court.

Chapter 2.
MISDEMEANORS

Article 207.

207.1. By a fine of no less than 500 € to 50.000 € shall be punishable for a misdemeanor any legal entity, if it within the scope of its activity or its business co-operation uses a Copyright work or subject matter of related rights without authorization.

207.2. By a fine of no less than 500 € to 10.000 € shall be punishable an institutional legal representative of a legal entity who commits a misdemeanour mentioned in the preceding paragraph.

Article 208.

208.1. By a fine of no less than 500 € to 50.000 € shall be punishable for a misdemeanour any legal entity, if it within the scope of its activity or its business co-operation:

- a). commits any act of circumvention of any effective technological protection measure (Article 185);
- b). commits any act of removal or alteration of electronic rights-management information (Article 186).

208.2. By a fine of no less than 500 € to 15.000 € shall be punishable an institutional legal representative of a legal entity who commits a misdemeanour mentioned in the preceding paragraph.

208.3. By a fine of no less than 500 € to 10.000 € shall be punishable an individual who commits a misdemeanour mentioned under paragraph (1) of this Article.

Article 209.

209.1. By a fine of no less than 500 € to 25.000 € shall be punishable for a misdemeanour any legal entity:

- a). that does not submit to the Office within the prescribed time limit, information about the types and number of sold or imported devices for sound or visual fixation, photocopying devices, blank carriers of sound or image, as well as information about sold photocopies, which are necessary for the calculation of the special remuneration;
- b). that does not submit to the Office, in the manner and time limit as prescribed by this Law, the reports or information or programs, relevant for the calculating of the respective remuneration;
- c). that prevent Office to look into the records, related to the duty to provide information.

209.2. By a fine of no less than 500 € to 10.000 € shall be punishable an institutional legal representative of a legal entity who commits a misdemeanour mentioned in the preceding paragraph.

209.3. By a fine of no less than 500 € to 10.000 € shall be punishable an individual who commits a misdemeanour mentioned under paragraph (1) of this Article.

Article 210.

210.1. By a fine of no less than 2.500 € to 10.000 € shall be punishable for a misdemeanour the collective agency established under Article 170 of this Law, if it:

- a). does not operate or negligently operates records and an accountancy;
- b). does not to distribute to rightholders all income, realized from royalties collected from the users of protected matter;
- c). does not follow the request for inspection of its activity through independent auditors;
- d). does not fulfil its obligations to the supervisory body or does not take measures ordered by that body for the correction of its work.

210.2. By a fine of no less than 1.000 € to 3.000 € shall be punishable an institutional legal representative of a collective agency who commits a misdemeanour mentioned in the preceding paragraph.

Article 211.

The articles which were produced by commitment of the misdemeanors as described in Articles 207 and 208 of this Law shall be confiscated.

Article 212.

The procedure for misdemeanours shall be initiated upon request of the inspection body, the Police, the injured party, the administrative authority for Intellectual Property or Office for Intellectual Property.

Article 213.

213.1. When an authorized agent of the inspection or of the Police, while engaged in supervision activity, has sufficient grounds to suspect that a misdemeanor as defined in Articles 207 to 208 was committed, he may temporarily seize the goods, devices or material which were used or intended for the commission of the misdemeanor, or were produced by such misdemeanor.

213.2. The temporarily seized articles, mentioned in the preceding Paragraph, shall be immediately submitted, along with the writ for the initiation of a misdemeanor proceedings, to the Municipal court for Misdemeanors.

PART VII. PROTECTION OF FOREIGNERS

1. General rule Article 214.

214.1. Foreign natural persons or legal entities (foreigners) shall enjoy the same protection as domestic persons, if international agreements or this Law so provide, or in case that factual reciprocity exists.

214.2. Foreign authors and performers shall enjoy the protection according to this Law with respect to their moral rights in any case.

2. Authors Article 215.

215.1. The protection under this Law shall enjoy the foreign authors:

- a). who are domiciled in Kosovo;
- b). with respect to their works published for the first time in Kosovo or within 30 days of having been published in another country;
- c). with respect to undisclosed works published for the first time in Kosovo;
- d). with respect to works of architecture and fine arts, which are as immovables or as a firm integral part of immovable property located on the territory of Kosovo.

215.2. If the work was created by more authors, the provision of this Law shall protect all of them if at least one author meets one of the conditions enumerated in the preceding paragraph.

3. Performers
Article 216.

216.1. The protection under this Law shall enjoy foreign performers:

- a). who are domiciled in Kosovo;
- b). whose performances take place on the territory of Kosovo;
- c). whose performances are fixed on phonograms that are protected under this Law;
- d). whose performances are incorporated, without having been fixed on phonograms; in broadcasts that are protected under this Law.

216.2. If more performers take part in a performance, the provisions of this Law shall protect all of them if at least one performer fulfils the conditions of the preceding Paragraph.

4. Other holders of related rights
Article 217.

217.1. The protection under this Law shall enjoy other holders of related rights which have their domicile or corporate seat in Kosovo.

217.2. The protection under this Law shall enjoy the producers of phonograms and film producers if their phonogram or videogram was first fixed in Kosovo.

217.3. The provisions of this Law shall enjoy the publishers with respect to their related rights if their edition was first published in Kosovo or within 30 days of having been published in another country.

217.4. The protection under this Law shall enjoy the broadcasters that transmit their broadcast from transmitters located on the territory of Kosovo.

217.5. The protection under this Law shall enjoy the makers of databases if the database was first made in Kosovo.

5. Communication to the public by satellite
Article 218.

218.1. The protection under this Law shall enjoy holders of Copyright or related rights, whose work or subject matter of related rights is communicated to the public by satellite, when under the control and responsibility of a broadcaster the relevant program-carrying signals are sent from the territory of Kosovo, into an uninterrupted chain of communication, to a satellite and down to the Earth.

218.2. The protection granted by this Law applies also when the condition from the preceding paragraph is not fulfilled, if:

- a). the uplink station from which program-carrying signals are transmitted is located in Kosovo, or
- b). the broadcaster who commissioned the communication to the public by satellite has its corporate seat in Kosovo.

6. Comparison of terms of protection

Article 219.

The terms of protection laid down in this Law shall apply to foreign holders of related rights that enjoy protection under this Law, however, they shall expire on the day when the protection expires in the country of which these holders are citizens, or where they have their domicile or corporate seat, and cannot exceed the terms set by this Law.

7. Stateless persons and refugees

Article 220.

220.1. Authors and holders of related rights that have no citizenship or whose citizenship cannot be determined, shall enjoy the same protection under this Law as domestic rightholders, if they are domiciled in it.

220.2. If they are not domiciled in Kosovo or if their domicile cannot be determined, they shall enjoy the same protection as domestic rightholders, if they have their residence in it.

220.3. If they have neither their domicile nor residence in Kosovo, they shall enjoy the same protection as citizens of the state in which they do have their domicile or residence.

220.4. Provisions of this Article shall apply equally to authors and holders of related rights, who under international treaties or laws of Kosovo have the status of a refugee.

8. Factual reciprocity

Article 221.

Reciprocity must be proved by the person basing its claims on it.

PART VIII

TRANSITIONAL AND FINAL PROVISIONS

Article 222.

222.1. This Law shall apply to all authors' works and to all performers' performances in respect of which property rights have not ceased to exist up to the day this Law has entered into force.

222.2. This Law shall also apply to the phonograms and to the performances recorded thereon, the first recording of which took place within fifty years prior to the beginning of the calendar year in which this Law entered into force.

222.3. Procedures launched for protection of author's rights and performer's rights, which have not been completed by the day this Law has entered into force, shall be finalized in accordance with the regulations which were effective on the day the Law entered into force.

222.4. This Law applies to videograms, broadcasts and publishers' editions, as subject matter of related rights, which were first fixed, broadcast or lawfully published after its entry into force.

222.5. Contracts on assigned rights, which have been concluded before the entry into force of this Law, cannot be changed with the argument of being in line with this Law.

222.6. The Office shall issue Regulations on the criteria referred to this law within the period of eighteen months counting from the date of entry into force of this Law.

Article 223

The present Law shall supersede any provision in the applicable law that is inconsistent with it.

Article 224

The present law shall enter into force after adoption by the Assembly of Kosova on the date of its promulgation by the Special Representative of the Secretary-General.

Law No.2004/45
29 June 2006

President of the Assembly

Kolë Berisha