

# COPYRIGHT LAW

## Part One

### RIGHTS OF AUTHORS

#### Chapter I

##### INTRODUCTORY PROVISIONS

###### Article 1

Authors of literary, scientific and artistic works shall enjoy copyright as provided for in this Law in respect of their creations (authors' works).

###### Article 2

The authors' works of nationals of the Republic of Croatia, or of persons who are not nationals of the Republic of Croatia but have their usual residence in the Republic of Croatia, published in the Republic of Croatia or abroad, as well as authors' works which have not been published, shall enjoy protection pursuant to this Law.

The unpublished authors' works of foreign nationals and stateless persons first published in the Republic of Croatia shall enjoy, pursuant to this Law, the same protection as the authors' works of nationals of the Republic of Croatia.

The authors' works of foreign nationals not first published in the Republic of Croatia shall enjoy, pursuant to this Law, protection within the framework of the obligations which the Republic of Croatia has assumed under international treaties or on the basis of the *de facto* reciprocity.

**An author's work shall be considered to be published if it has been made accessible to the public in the manner whatsoever, at will of the author or other entitled person.**

**The public, within the meaning of the provisions of this Law, shall mean a large number of persons outside the usual narrow circle of persons closely connected by family or friendly relations.**

**Public exploitation of an author's work shall comprise any exploitation of the work accessible to the public or its exploitation in the area accessible to any person.**

## Chapter II

**THE AUTHOR'S WORK AND THE AUTHOR****1. The Author's Work**

## Article 3

Unless otherwise provided in this Law, a creation in the literary, scientific or artistic field or in any other field of creation, whatever may be the kind, method or form of expression thereof, shall be considered an author's work.

The following, in particular, shall be considered authors' works:

- **written works of any kind, including computer programs;**
- oral works (lectures, addresses and other works of the same nature);
- dramatic and dramatico-musical works;
- choreographic works and entertainments in dumb show the acting form of which is fixed in writing or otherwise, as well as works derived from folklore;
- musical works, with or without words;
- cinematographic works and works created by a process analogous to cinematographic creation;
- works of painting, sculpture, architecture and graphic art, whatever may be the material of which they are made, as well as other works of fine art;
- works of all branches of applied art and industrial designing;
- photographic works and works produced by a process analogous to photography;
- cartographic works (geographical maps, topographical maps, and the like);
- plans, sketches and three-dimensional works related to geography, topography, architecture and any other scientific or artistic field.

## Article 4

**Collections of author's works, data or other material, whether in machine readable or other form, which by reason of the selection or arrangement of their contents constitute individual intellectual creations shall as such, enjoy copyright protection.**

**The protection enjoyed by the collection referred to in paragraph 1 of this Article shall not extend to its content and shall be without prejudice to any copyright subsisting in the works, data or material itself.**

## Article 5

Translations, adaptations, musical arrangements and other alterations of authors' works shall be protected as original works.

The protection provided for in the first paragraph of this Article shall also be granted to translations of official texts of a legislative, administrative or judicial nature, if these translations are not made for the purpose of official publication and are not published as such.

The provision of the first paragraph of this Article shall not affect the rights of the author of the original work.

#### Article 6

The use of creations of folk literature and art for the purpose of a literary, artistic or scientific arrangement shall be free.

#### Article 7

The title of the author's work shall enjoy the same protection pursuant to this Law as the work itself.

It shall be unlawful to give the author's work a title which has already been used for the author's work of the same kind, if such title is likely to cause confusion regarding the author of the work.

## **2. The Author**

#### Article 8

The author of a work is the person who created the work.

The person whose full name or pseudonym appears on the work shall be regarded as the author, unless proved to the contrary.

#### Article 9

The author of a collection of authors' works is the person who made the collection.

The author of a translation, as well as the author of a work which has been adapted, musically arranged, or altered in another way, is the person who translated, adapted or musically arranged such work or who altered it in another way.

The person who created a literary, artistic or scientific work by using creations of folk literature or art is the author of the work so created.

#### Article 10

Where an author's work created jointly by two or more persons constitutes an indivisible entity, copyright in such work shall belong indivisibly to all those who contributed to its creation.

If the mutual relationships between co-authors are not otherwise settled by a contract, the share of each co-author shall be fixed in proportion to the actual contribution of each of them towards the creation of the author's work.

Where an author's work created jointly by two or more persons does not constitute an indivisible entity, each co-author shall be vested with copyright in his contribution.

## Article 11

Copyright in anonymous works, as well as in works published under a pseudonym, the author of which is unknown shall be exercised by the publisher.

Copyright in unpublished works the author of which is unknown shall be exercised by the corresponding association of authors.

The provisions of the first and second paragraphs of this Article shall cease to apply as from the time when the identity of the author is established.

## Article 12

In addition to the author, the owner of copyright may also be the entity to whom any or all legal prerogatives of authors which may be transferred under this Law shall belong, by operation of law, will or a contract.

The prerogatives granted to the author by this Law shall belong to a copyright owner other than the author within such limits as they are vested in him by law, or to the extent that they have been transferred to such copyright owner by will or a contract.

The author may not exercise economic rights which he has transferred to another person.

The copyright owner shall be responsible for any prejudice caused to third parties by the non-authorized transfer of authors' property-right prerogatives.

Unless otherwise provided in this Law, the provisions of the Law concerning the author shall also apply to other copyright owners.

### **3. Special Provisions Concerning the Author's Work and the Author**

#### ***The Cinematographic Work***

## Article 13

The author of the scenario, the director and the director of photography, as well as the principal cartoonist in the case of an animated cartoon film, shall be considered the authors of the completed cinematographic work.

If music is the essential element of a cinematographic work, the composer of the music for that work shall also be considered the author of such cinematographic work.

The composer of film music who is not considered the author of the cinematographic work within the meaning of the second paragraph of this Article, the designer of the sets, the costume designer and the make-up artist shall have copyright in their contributions and may transfer them to the maker of the cinematographic work only by a contract.

## Article 14

The authors of the cinematographic work shall have the exclusive right to film their creations and to reproduce, distribute, perform and broadcast, translate and alter them.

#### Article 15

The relationship between the maker of the cinematographic work and the authors thereof, as well as the mutual relationships between the authors of the cinematographic work, shall be governed by a contract made in writing.

The contract referred to in the first paragraph of this Article shall, *inter alia*, determine the rights transferred to the maker and the remuneration due to the authors of the cinematographic work.

The rights not transferred to the maker by a contract shall be reserved to the authors of the cinematographic work.

The maker of the cinematographic work shall, within the meaning of this Law, be considered the person who or legal entity or group of citizens which produces a cinematographic work, whether on the basis of a contract or on his or its own initiative.

#### Article 16

Unless otherwise agreed, the author of the scenario and the composer may publish or separately utilize in another way the contributions they have made to the cinematographic work, provided that this is without prejudice to the rights transferred to the makers of the cinematographic work.

#### Article 17

The cinematographic work shall be regarded as completed when the first master print of the film has been produced in compliance with the agreement between the authors and the maker of the cinematographic work.

#### Article 18

If the maker does not complete the cinematographic work within three years of the date of the conclusion of the contract pertaining to the making of such work, or if he does not distribute the cinematographic work so completed within one year of the date of the completion thereof, the authors of the cinematographic work, while reserving their right to remuneration, may request rescission of the contract unless another time limit is agreed upon.

If any of the authors refuses to complete his contribution to the cinematographic work or if, by force majeure, he is unable to do so, he may not object to the use, for the purpose of completing the cinematographic work, of the contribution he has already made. Such an author shall have the corresponding copyright in the contribution already made to the creation of the cinematographic work.

## *Employment or Pursuant to a Commission*

### Article 19

The relations concerning authors' works created in the course of employment, shall be governed by Regulations and collective agreements or employment contracts, in accordance with this Law.

### Article 20

A legal entity, or the employer, shall have the exclusive right to use, within the framework of their regular activity and within a period of five years, authors' works created by a worker in the fulfillment of his work obligations in that legal entity, or on the premises of that employer (work created in the course of employment), without requesting the authorization of the worker who is the author of the work in question.

The worker-author shall have the right, for the use of the author's work created in the course of employment within the meaning of the first paragraph of this Article, to a separate remuneration in accordance with collective agreements or employment contracts, in proportion to the extent to which the use of the work has contributed to the increase in revenues or profit, or to the exercise of the activities and the achievement of the tasks of that legal entity.

The worker-author of the work created in the course of employment shall retain all other copyrights in his work.

Other copyrights in works created in the course of employment may not be limited by collective agreements or employment contracts or by a contract (Article 19).

Subject to the provisions of this Article, the owner of the author's economic right in a computer program created in an enterprise or other legal entity, or on the premises of an employer, shall be that legal entity or that employer.

### Article 21

The right of publication of the author's work created in the course of employment shall include the right to publish a single bibliographic edition, that is, the right to a single multiplication.

When a work created in the course of employment is published, a legal entity, or the employer, shall be obliged to indicate the full name of the author or his pseudonym.

If the legal entity, or the employer, does not publish the work created in the course of employment before the expiration of the time limit provided for in the Regulations, in a collective agreement or an employment contract, the right to publish the work shall revert to the author.

The legal entity, or the employer, may, even before the expiration of the time limit referred to in the third paragraph of this Article, permit the author to publish the work created in the course of employment.

When publishing his complete works the author may, even without the permission of the legal entity, or of the employer, publish the work created in the course of employment without regard to the fact that the said work has already been published.

After the expiration of a period of five years from the date of completion of a work created in the course of employment, the right to publish the work shall revert to the author.

The right of publication of the work created in the course of employment shall revert to the author even before the expiration of the period provided for in the sixth paragraph of this Article if the significance of the work is limited to a shorter period.

#### Article 22

The worker employed within a legal entity, or on the premises of an employer, who, in the fulfillment of his work obligations, draws up an account of technical matters, a report, an official record or any other similar work shall not acquire any copyright in such works.

#### Article 23

Unless otherwise agreed, all copyrights in works created pursuant to a work-by-contract agreement shall belong to the author who created the work.

Subject to the provisions of the first paragraph of this Article, the owner of the author's economic right in a computer program created pursuant to a work-by-contract agreement shall be the person who ordered it, unless otherwise specified in the said agreement.

#### Article 24

Where one or more persons have organized the work on the creation of an author's work (hereinafter referred to as "the person commissioning the work") in which several contributors not having employment relationships with the person commissioning the work have participated, the copyright in the whole work shall, unless otherwise stipulated in the contract, belong to the person who commissioned it.

Each of the persons who have contributed to the creation of the work referred to in the first paragraph of this Article shall retain his copyright in his own contribution.

The person commissioning the work referred to in this Article shall not republish it or use it for any other purpose without the authorization of all the contributors.

### Chapter III

## **CONTENT AND EXPLOITATION OF COPYRIGHT**

#### Article 25

Copyright shall include property-right prerogatives (hereinafter referred to as "authors' economic rights") and prerogatives of a personal nature (hereinafter referred to as "authors' moral rights").

#### Article 26

The author's economic rights shall consist of the rights of the author to the exploitation of his work.

The exploitation of an author's work is effected, in particular, through publication, reproduction or multiplication, distribution, presentation, performance, transmission or other communication to the public, translation, adaptation and arrangement of the work.

Unless otherwise provided in this Law, exploitation of an author's work by another person may take place only with the authorization of the author.

Unless otherwise provided in this Law or by a contract, the author shall have the right to a remuneration for each and every exploitation of his work by another person.

#### Article 27

The author's moral rights shall consist of the right to be recognized and indicated as the author of the work, his right to object to any distortion, mutilation or other modification of the work, and his right to object to any use of the work which would be prejudicial to his honor or reputation.

#### Article 28

Any person who publishes, alters, arranges, performs, translates or records an author's work and any other person who exploits such work in public shall be required to indicate the full name of the author of the work for each and every exploitation, if the author does not want the work to be anonymous or pseudonymous.

#### Article 29

The author may at any time, after having compensated the damages to the owner of the copies thereof, withdraw his published author's work from circulation or buy all copies thereof, as well as prohibit the latter from being further exploited in any form whatsoever, if the use of the said work might prejudice the scientific or artistic reputation of the author.

If the author's work referred to in the first paragraph of this Article is put back into circulation, the former owner of the copies of the work shall have priority as regards the right to use the work, that is, the rights to pre-emption within 30 days from the date on which he was informed about it, but not later than one year from the date on which the work was put back into circulation.

The prerogatives provided for in the first paragraph of this Article shall not belong to other copyright owners.

### Article 30

**The author shall have the exclusive right to authorise the publication, reproduction or multiplication of the work, putting into circulation the original or the copies of the work, including the importation thereof, the presentation, performance, alteration or the exploitation of the work in any other form, unless otherwise provided by this Law.**

**The exclusive right of putting into circulation referred to in paragraph 1 of this Article, shall be exhausted through the first sale of the original or copies of the author's work or through any other transfer of property right relating thereto, done in the Republic of Croatia, with the author's authorisation, concerning such original or such copy of the work.**

**The provision referred to in paragraph 2 of this Article shall not prejudice the author's right to authorise the importation of the original or the copies of the work into a particular State, unless otherwise provided for by the international treaty binding the Republic of Croatia.**

### Article 30a

**The authors of the computer programs, cinematographic works and works analogous to them referred to in Article 3, paragraph 2, subparagraph 6, of this Law, and of the works fixed on sound carriers (phonograms) shall have the exclusive right to authorise the rental of the originals or the copies of those works.**

**The provision referred to in paragraph 1 of this Article shall not apply to the rental of computer programs if the program itself is not an essential object of the rental.**

**The exclusive right of rental referred to in paragraph 1 of this Article shall not be exhausted with respect to the original or the copies of the work respectively, which have been put into circulation with the author's authorisation through sale or in any other way.**

### Article 31

Authors of dramatic, dramatico-musical and musical works shall have the exclusive right to authorize:

1. the public performance of such works;
2. the communication to the public of the performance of such works by any means.

The rights referred to in the first paragraph of this Article shall also be granted to the authors of dramatic and dramatico-musical works with respect to translations of such works.

### Article 32

The author shall have the exclusive right to authorize:

1. the broadcasting of his work or the communication thereof to the public by any other means of wireless diffusion of signs, sounds or images;

2. any communication to the public, whether by wire or not, of the broadcast of his work, where such communication is made by an organization other than the one which originally broadcast it;

3. the communication to the public by loudspeaker or any other similar instrument transmitting, by signs, sounds or images, the broadcast of his work.

#### Article 33

Authors of literary, scientific and musical works shall have the exclusive right to authorize:

1. the recording of such works by instruments for mechanical reproduction;

2. the public performance of such works recorded by instruments for mechanical reproduction.

#### Article 34

Authorization granted in respect of public presentation and public performance, public transmission of a presentation and performance, broadcasting to the public or any other communication to the public shall not imply permission to record the work by means of instruments recording sounds or images.

Unless otherwise agreed, the broadcasting organization may, by means of its own facilities and solely for its own needs, record the protected work it has received the authorization to broadcast, and may rebroadcast such recordings upon the payment of a remuneration and without seeking further authorization from the author.

The recordings referred to in the second paragraph of this Article may be placed in public archives as documentation material.

#### Article 35 (*Deleted*)

#### Article 36

The author of a literary work shall have the exclusive right to authorize the public recitation and reading of his work.

#### Article 37

The author shall have the exclusive right to authorize adaptations, arrangements or other alterations of his work.

## Article 38

Authors of literary, musical, scientific and artistic works shall have the exclusive right to authorize:

1. the cinematographic adaptation or reproduction of these works and the distribution of the works thus adapted or reproduced;
2. the public performance and presentation of the works thus adapted or reproduced.

Without prejudice to the rights of the author of the work adapted or reproduced, a cinematographic work created by the adaptation or reproduction of literary, musical, scientific or artistic works shall be protected as an original work.

The adaptation, in any artistic form, of cinematographic works derived from literary, musical, scientific or artistic works shall not be effected without the authorization of the authors of such works or without the authorization of the authors of the cinematographic works, unless that right has been granted by them to the maker by a contract.

The provisions of this Article shall also apply to the reproduction or production effected by any other process analogous to cinematography.

## Article 39

Authors of original works of fine art, with respect to such works, and authors of literary, scientific and musical works, with respect to their original manuscripts, are entitled to be informed by the owners or users of such works and/or manuscripts of the identity of the new owner.

If the original of a work of fine art or an original manuscript is resold, the seller shall enable the author thereof to have the share of five per cent of the selling price (*droit du suite*).

The owner of works of fine art and the owner of literary, scientific and musical manuscripts referred to in the first paragraph of this Article shall be required to inform the author, at his request, of the identity of the new owner.

The author may not renounce in advance his *droit de suite*.

The *droit de suite* cannot be transferred by legal acts during the author's life, but can be inherited. After the author's death, it passes on to his heirs, either by operation of law or by will.

The *droit de suite* cannot be the subject of compulsory execution or any distraint.

The provisions of this Article shall not apply to architectural works or works of applied art.

## Article 40

Authors of works of fine art, photographic works and similar works may prohibit the exhibition of their particular works if they have a moral interest therein.

The author may not prohibit the exhibition of works belonging to museums, galleries and similar organizations.

## Article 41

The author shall have the exclusive right to authorize the translation of his work.

Article 42 (*Deleted*)Article 43 (*Deleted*)Article 44 (*Deleted*)Article 45 (*Deleted*)Article 46 (*Deleted*)

## Article 47

The following shall be permissible in the territory of the Republic of Croatia without the authorization of the author:

1. the publication and reproduction of excerpts from a literary, scientific or artistic work for teaching purposes;
2. the reprinting in periodical publications of articles dealing with current matters of general public interest, provided that the reproduction of such articles has not been expressly prohibited by the author;
3. the reproduction in newspapers and periodical publications of single photographs of current events, illustrations, technical sketches, and the like, published in other newspapers and periodical publications;
4. the reproduction of artistic works exhibited in streets and squares, unless the reproduction of a work of sculpture has been obtained by means of a mould;
5. the **publication**, by means of photography, of works of sculpture and painting and works of architecture in newspapers and reviews, unless the author has expressly prohibited it.

The provisions of the first paragraph of this Article shall, *mutatis mutandis*, apply to publication and reproduction in the daily and periodical press, in films, in newsreels and by means of broadcasting.

In all the cases referred to in the first paragraph of this Article, the author's full name, the original work and the origin of the borrowing must be clearly indicated.

In the cases referred to in the first paragraph of this Article, the author shall have the right to a remuneration and all other rights vested in him under this Law.

#### Article 48

The following shall be permissible in the territory of the Republic of Croatia without the authorization of the author and without the payment of a remuneration for use:

1. the performance of a literary or artistic work for the purposes of teaching or in the form thereof, provided that such performance involves no entrance fee or other form of payment or is given on the occasion of school celebrations where attendance is free of charge;

2. the publication of reviews of published literary, artistic or scientific works, wherein the content of such works is reproduced in an original and abridged manner;

3. the public exhibition of works, except those the exhibition of which is prohibited by the author, provided that he has not renounced this right by a contract;

4. the reproduction of works already published, effected for purposes of improving one's personal knowledge, provided that such reproduction is neither intended for nor accessible to the public;

5. the reproduction of works of painting by means of sculpture and *vice versa*, as well as the reproduction of works of architecture by means of painting or sculpture;

6. the faithful quotation of excerpts from a work that in a lawful way became available to the public, under the condition that it is in compliance with customary usage and in the measure justified by the purpose to be achieved, and that in the quotation, the source and the name of the author, if available in the source, are indicated.

7. the reproduction or adaptation, by the user, of copies of a computer program with a view to use for the purposes for which the program has been acquired, for archiving and for replacement of a lost, damaged or worn-out copy.

In the cases referred to in the first paragraph of this Article, the author shall retain all other rights vested in him by this Law.

#### Article 49

Speeches intended for the public and made in the Parliament of the Republic of Croatia and in the bodies of local government and self-government, before courts and other State authorities, in scientific, artistic and other organizations, as well as at public meetings and official celebrations, may, without the authorization of the author and without the payment of remuneration for their use, be made public by the press and radio or television for purposes of reporting current events.

Other lectures, addresses and other works of the same nature may, without the authorization of the author and without the payment of remuneration for their use, only be reported briefly in the daily and periodical publications and by broadcasting.

A collection of the works mentioned in the first and second paragraphs of this Article may not be compiled without the authorization of the author.

In the cases provided for in the first and second paragraphs of this Article, the author shall retain all other rights vested in him by this Law.

#### Article 50

Remuneration shall be paid for the exploitation of creations of folk literature and art by means of a public performance as for a public performance of authors' works. The remuneration shall be the revenue of the government budget.

The exploitation of creations of folk literature and art in any other form shall be free.

Persons who exploit creations of folk literature and art must indicate the origin of the work and abstain from any mutilation or any unworthy use thereof.

The corresponding associations of authors and the Croatian Academy of Arts and Sciences shall be entrusted with the safeguarding of the rights referred to in the third paragraph of this Article.

### Chapter IV

#### **TRANSFER OF COPYRIGHT**

##### **1. Scope of the Transfer**

#### Article 51

The right of the author to the exploitation of his work may be transferred wholly or in part, with the payment of a remuneration or without it, to individual persons or to legal entities for the entire term of copyright or for a specific period of time.

The person to whom the right of exploitation of an author's work has been transferred may not, unless otherwise agreed, transfer that right to a third party without the consent of the owner of the right.

#### Article 52

When using the author's work, the person to whom the right of exploitation of that work has been transferred shall not be authorized to make any modifications thereof, unless otherwise agreed or provided in this Law.

#### Article 53

The author has the exclusive right to transfer the right of exploitation of his work to another person and to allow the user to modify the work or to alter it in the respects and within the limits specified.

## **2. Transfer by Authors' Contracts**

### *(1) Common Provisions Concerning Authors' Contracts*

#### Article 54

The author may transfer the right of exploitation of his work to another person through authors' contracts, such as a publishing contract, a performance contract, a contract for a cinematographic work, a contract for radio and television broadcasting, a contract for the recording of his work by means of instruments recording sounds and images, a contract for the alteration (adaptation) of his work, a contract for the transfer of the right of translation of his work, and the like.

#### Article 55

Authors' contracts shall be concluded in writing.

An author's contract not concluded in writing shall have no legal effect, unless otherwise provided by the Law.

#### Article 56

An author's contract shall contain in particular: the names of the contracting parties, the title of the author's work which is the subject of the contract, the type of use of the author's work, the amount, terms and time limits for the payment of a remuneration where the work is used in consideration of remuneration.

The remuneration for the use of the author's work shall, in so far as this is possible, be fixed by taking into account the quality of the work, the sales possibilities thereof, the economic benefits which the other contracting party derive from using the work, as well as other conditions permitting an evaluation of the results achieved by the author's work as regards meeting social needs.

#### Article 57

If the revenue derived from the use of the author's work is evidently disproportionate to the author's agreed remuneration, the author shall be entitled to request that a more equitable participation in the revenue so derived be fixed and/or ensured by an amendment of the contract for the use of the work.

#### Article 58

The author's contract may also concern a work not yet created.

Any contract in which the author transfers the right of exploitation in respect of his future works shall be null and void.

#### Article 59

The author shall be required, during the period of validity of the contract, to abstain from acts which might disturb the user in the exercise of the transferred copyright.

#### Article 60

The provisions of the laws governing contractual relations shall apply to authors' contracts, unless otherwise provided in this Law.

### *(2) Publishing Contract*

#### Article 61

By a publishing contract, the author transfers to the publisher the right of publication of his author's work by means of printing or multiplication.

The publisher shall be required to publish the author's work, to indicate the author's full name, if the author does not want the work to be anonymous or pseudonymous, visibly on each copy, to pay a remuneration to the author if the work is used in consideration of remuneration, to ensure effective distribution of copies of the work, and to supply the author periodically, at his request, with information concerning the distribution of copies of the author's work.

By a publishing contract, the author may also transfer to the publisher the right of translation of his work for the purpose of the publication thereof in other languages, both in the Republic of Croatia and abroad.

#### Article 62

The author's agent may conclude a publishing contract only for the works specified in his power of attorney.

The agent of the author with limited business capacity may not conclude a publishing contract without the author's consent to the publication of the work.

#### Article 63

The publishing contract shall specify in particular the scope and duration of the use of the right transferred to the publisher by the author, the time limit within which the publisher is required to publish the work and the amount of the remuneration.

Where the remuneration for the use of the work is fixed as a percentage of the retail price of the selling copies, the publishing contract shall likewise specify the minimum amount

of the remuneration which is payable by the publisher regardless of the number of copies sold, as well as the time limit for paying that amount.

#### Article 64

During the period of validity of the publishing contract, the author may not, unless otherwise stipulated in the contract, assign to a third party the right of publication or of multiplication of the author's work in the same language.

The right of publication of newspaper articles may, unless otherwise stipulated in the contract, be assigned by the author simultaneously to several users.

#### Article 65

Unless otherwise stipulated in the publishing contract, it shall be considered that the author has transferred to the publisher, by that contract, only the right of publication for a single bibliographic edition, that is, the right to a single multiplication.

#### Article 66

The manuscript or any other original of the author's work which is the subject of the publishing contract shall, unless otherwise stipulated in the contract, remain the property of the author.

#### Article 67

Unless otherwise stipulated in the publishing contract, the publisher shall be required, if new editions of the author's work are printed, to allow the author to include improvements or modifications in his work, provided that these do not involve excessive expense for the publisher and do not alter the character of the work.

#### Article 68

When a work is destroyed by force majeure after its remittance to the publisher with a view to its publication, the author is entitled to the remuneration which would have been due to him if the work had been published.

When a prepared edition is destroyed by force majeure before its distribution, the publisher is entitled to prepare a new edition, and the author shall have the right to the remuneration for the destroyed edition but not for the identical new edition.

In the case of partial destruction of a prepared edition by force majeure before its distribution, the publisher is entitled to reproduce, without paying remuneration to the author, only as many copies as were destroyed.

#### Article 69

The following shall cause the publishing contract to terminate: the death of the author before the completion of the author's work, the fact that all editions provided for in the contract are out of print and the termination of the contract.

Unless otherwise stipulated in the contract, the author may request the rescission of the publishing contract if, after one edition being out of print, the publisher has not, within one year from the date on which the author requested him to do so, proceeded with publishing a new edition as stipulated in the contract.

If, within the time limits provided for in the contract, the author has not delivered the author's work to the publisher or the publisher has not published the work, the publisher or the author, as the case may be, may demand the rescission of the contract and claim damages for non-fulfillment of the contract; in addition, the author shall have the right to keep the remuneration received or, as the case may be, to request the payment of the remuneration stipulated in the contract.

If the time limit for publication of the work has not been fixed in the contract, the publisher shall be required to publish the work within a reasonable period of time, and at the latest within one year from the date of the remittance of the manuscript or other original work.

#### Article 70

A contract for the publication of articles, drawings and notes in newspapers, reviews and other periodicals need not be concluded in writing.

#### Article 71

If the publisher, during the period of validity of the publishing contract and at the latest on expiration of three years from the date of publication of the work unless a longer period is stipulated in the contract, intends to sell unsold copies of the work for pulping, he is bound to offer them first to the author at the price which he would obtain if he sold them for pulping.

If the author does not purchase the offered copies of the work, or purchases only a part thereof, the publisher may sell the remaining copies of the work for pulping.

### ***(3) Presentation Contract and Performance Contract***

#### Article 72

By a performance contract or a presentation contract respectively, the author of the work shall transfer the right of public presentation or performance of the author's work to the user, and the user shall undertake to present or perform, as the case may be, the said work within the fixed time limit, and in the manner and under conditions set forth in the contract.

#### Article 73

The author may simultaneously transfer the right of presentation or performance respectively of a given author's work to a larger number of users, unless he has renounced that right by a contract.

#### Article 74

The presentation contract or the performance contract respectively shall specify in particular the type of presentation or performance, as the case may be, of the author's work and the territory in which the work may be used.

#### Article 75

If, within the time limits provided for in the contract, the author has not delivered the work (manuscript, score, or the like) to the user, or the user has not presented or performed the work respectively, the author or the user, as the case may be, may demand the rescission of the presentation contract or the performance contract respectively, and claim damages for non-fulfillment of the contract.

Where the rescission of the contract is due to a fault on the part of the user, the author shall also have the right to keep the remuneration received or, as the case may be, to request payment of the remuneration stipulated in the contract.

The manuscript, score or other original of the author's work which is the subject of the presentation contract or the performance contract respectively, shall, unless otherwise stipulated in the contract, remain the property of the author.

#### Article 76

The beneficiary of the presentation contract or performance contract respectively shall be required to allow the author to inspect the presentation or, as the case may be the performance of the work, to ensure that the work is presented or performed under technical conditions guaranteeing that the moral rights of the author will be respected, as well as to supply the author or his agent with the program and to inform him periodically of the receipts derived from the performance of the work.

Relationships between the authors and organizations for radio and television in the capacity of users of the author's work within the meaning of the first paragraph of this Article shall be governed by a contract.

### ***(4) Contract for a Cinematographic Work***

#### Article 77

Contracts for cinematographic works include both the contracts concluded by the authors of the cinematographic work (contracts concerning the scenario, the direction of the film and the film music, the contract concluded with the principal cartoonist) and the contracts concerning individual contributions to the cinematographic work made by other authors.

The authors of the cinematographic work transfer to the maker, by a contract, the right to film, reproduce, distribute and publicly perform the cinematographic work.

The maker shall be required to distribute the cinematographic work and to provide the authors thereof, at their request, with information concerning the results of such distribution.

The remuneration stipulated in the contract for filming the cinematographic work shall not include the remuneration for reproduction and public performance of the cinematographic work.

#### Article 78

During the period of validity of the contract for the cinematographic work, the authors of that work may not, unless otherwise stipulated in the contract, transfer to a third party the right of filming, reproduction, distribution or public performance.

Where the maker to whom the authors have transferred the right to film the work does not do so within a period of three years from the date of conclusion of the contract, the authors may demand rescission of the contract and claim damages for non-fulfillment of the contract, as well as keep the remuneration received or, as the case may be, request the payment of the remuneration stipulated in the contract.

### *(5) Transfer by Inheritance*

#### Article 79

The provisions of the laws on inheritance shall apply to the inheritance of copyright, unless otherwise provided in this Law.

### *(6) The Care for the Respect and Protection of Authors' Moral Rights After the Author's Death*

#### Article 80

After the death of the author, the respect for the authors' moral rights, unless the author otherwise determined while his economic rights were still in effect, shall be vested in his heirs, in the association of authors the deceased author belonged to or would have belonged to according to the type of the author's work, in other specialised legal entities referred to in Article 90, paragraph 1 of this Law and in the Croatian Academy of Arts and Sciences.

After the expiration of the author's economic rights, the author's moral rights shall be safeguarded by the organizations listed in the previous paragraph and the Croatian Academy of Arts and Sciences.

## Chapter V

### **TERM OF COPYRIGHT PROTECTION**

#### Article 81

**Authors' economic rights shall last during the author's life and seventy years after his death, and if such rights belong jointly to the collaborators in the creation of**

the author's work, this term shall be counted from the death of the last deceased collaborator.

Author's economic right in an anonymous author's work and in an author's work published under a pseudonym shall last seventy years from the publication of the work. If a pseudonym leaves no doubt regarding the identity of the author or if the author reveals his identity, the author's economic right shall last as long as it would have lasted if the author's work had been published under the name of the author.

If the holder of the author's economic right, within the meaning of Article 24 of this Law, is a legal entity, the copyright shall last for seventy years as from the publication of the work or seventy years respectively as from the creation a computer program.

The terms referred to in this Article shall begin with January 1 of the year following immediately the year in which the author died, or as the case may be, the year in which the work was published or created respectively.

Article 82 (*Deleted*)

Article 83 (*Deleted*)

Article 84 (*Deleted*)

Article 85 (*Deleted*)

Article 86

Authors' moral rights shall subsist also after the termination of their economic rights.

Article 87 (*Deleted*)

Article 88

After the termination of authors' economic rights, a special remuneration shall be payable for the use of the author's work if so provided by a separate law.

## ADMINISTRATION OF COPYRIGHT

### Article 89

The author may exercise his author's rights by himself or through an agent.

### Article 90

**The activity of administering copyrights may be, with the authorisation of the State Intellectual Property Office (hereinafter: the Office), carried out by associations of authors and other copyright holders as well as by other legal entities specialised for the administration of copyrights.**

**The administration of copyright carried out by the association of authors or other specialised legal entity referred to in paragraph 1 of this Article shall require the power of attorney given by the author or other copyright holder.**

**Exceptionally, copyrights in public performances of non-scenic musical or literary works, including the rights referred to in Article 32 and Article 36 of this Law (petits droits), may be administered by the association of authors even without the power of attorney of the author or other copyright holder.**

**The Office shall give authorisation referred to in paragraph 1 of this Article, if the association of authors or, as the case may be, other legal entity, meet the criteria of professional knowledge necessary for carrying out activities relating to the administration of copyrights prescribed in the Regulations by the Director of the Office.**

**If the association of authors or other legal entity specialised for the administration of copyrights cease to meet the prescribed criteria for carrying out such activity, the given authorisation shall be put out of effect.**

### Article 91

If there is no copyright contract for a public performance of non-scenic literary and musical works or if the contract doesn't stipulate the amount of the remuneration, the associations of authors may obtain a remuneration for the authors of these works in the amount that they have determined in their Regulations.

### Article 92

To act as representative before courts and other bodies, the association of authors or the specialised legal entity respectively, referred to in Article 90 of this Law must possess a special power of attorney from the author whose copyright is concerned in the litigation.

### Article 93

To act as representative before courts and other bodies with a view of enforcing copyrights referred to in Article 90 paragraph 3 of this Law, the association of authors or the

specialised legal entity respectively, referred to in Article 90 of this Law, shall not need a special power of attorney from the author.

The association of authors or the specialised legal entity respectively, referred to in Article 90 of this Law may initiate and conduct in its own name the court actions referred to in the first paragraph of this Article, but it shall be required to report to the author the rights thus enforced.

#### Article 94

The impresarios of cultural and artistic entertainments and other users of authors' works shall be required to obtain authorization for the performance of such works in cases where such authorization is required under the provisions of this Law, and to supply without delay, and at the latest within 15 days from the date of performance, the association of authors or the specialised legal entity respectively, referred to in Article 90 of this Law with the programs of the works performed and to pay them royalties for the exploitation of such works.

At the request of the author, association of authors or the specialised legal entity respectively, referred to in Article 90, paragraph 1 of this Law, as the case may be, the competent police administration or police station shall prohibit the entertainment, or the second use of the author's work respectively, if the entertainment impresario, or other user of the author's work, does not have authorization for the performance from the author, association of authors or the specialised legal entity respectively, referred to in Article 90, paragraph 1 of this Law.

The users of authors' works shall provide all the information relevant for the administration of a copyright to the association of authors or other legal entity specialised for the administration of copyrights and shall make the corresponding documentation available for inspection.

At the request of association of authors or other legal entity specialised for the administration of copyrights, the financial police shall provide the necessary assistance in the administration of copyrights.

## Chapter VII

### **COPYRIGHT PROTECTION**

#### Article 95

Any person whose authors' rights, whether economic or moral, have been infringed may demand the protection of such rights and claim damages for the harm suffered by the infringement.

#### Article 96

At the request of the plaintiff, the court may order in its decision:

1. that the defendant be prohibited to continue his infringement of copyright;
2. that the objects by means of which the infringement of the copyright was committed be destroyed or modified;
3. that the judgment be published at the expense of the defendant.

#### Article 97

**On the proposal of the author, or other copyright holder, or their association, or other legal entity specialised for the administration of copyrights, whereby it is made likely that the concerned copyright was infringed or that the infringement is imminent, the court may order:**

**1) the provisional seizure or withdrawal from circulation of articles or means respectively, infringing the copyright, or used for the infringement thereof, or which resulted from the infringement of the copyright, or which may be used as evidence of the infringement thereof;**

**2) the prohibition of the continuation of activities already started that would infringe copyright or the prohibition of the continuation of activities infringing it.**

**If there is a likelihood that the later provision of evidence on infringement of copyright could be difficult or impossible, or if there is a likelihood of irreparable damage, or if there is a likelihood that the provisional measures laid down in paragraph 1 of this Article would not be effective, the court shall order such measures, without the prior notification of the other party to that effect.**

**The procedure concerning the proposal for ordering provisional measures shall be urgent.**

**The corresponding provisions of the Law on Enforcement shall be applied to any matter concerning the ordering of provisional measures, not regulated by this Law.**

#### Article 98

Where a person who publicly exploits an author's work does not indicate the author's full name in connection with such exploitation, the author may claim appropriate compensation for damages from such person, the subsequent publication of the author's full name in a suitable form, as well as an interdiction prohibiting that person from repeating such infringements.

#### Article 99

Copyright cannot be the subject of compulsory execution.

Compulsory execution may be exercised on the economic benefit derived from the author's work.

Unfinished works and unpublished manuscripts cannot be the subject of compulsory execution.

## Part Two

### **RIGHTS OF PERFORMERS**

#### Chapter I

#### **INTRODUCTORY PROVISIONS**

##### Article 100

Performers who perform literary or musical works or other artistic works shall enjoy the rights laid down in this Law in respect of their performances.

The rights of performers shall in no way affect the rights of the authors of the works mentioned in the first paragraph of this Article.

##### Article 101

For the purposes of this Law, performers are individuals and groups that in an artistic manner present, recite, declaim, sing, play, dance or in any other way perform literary or musical and other artistic works.

##### Article 102

The performer who is a national of the Republic of Croatia, or a foreign national who has a usual residence in the Republic of Croatia, shall enjoy the rights provided by this Law in respect of his performances given or used in the Republic of Croatia or abroad.

The performer who is a foreign national or stateless shall enjoy the rights in respect of his performances given or used in the Republic of Croatia, pursuant to this Law within the framework of the obligations which the Republic of Croatia has assumed under international treaties or on the basis of *de facto* reciprocity.

#### Chapter II

#### **CONTENT OF THE RIGHTS OF PERFORMERS**

##### Article 103

The performer shall enjoy the economic and moral rights provided by this Law.

The economic rights referred to in the first paragraph of this Article shall be understood to be the rights of the performer in relation to the exploitation of his performance.

The moral rights referred to in the first paragraph of this Article shall be understood to be the performer's right to have his name or pseudonym mentioned on any communication of his performance to the public, and also on any recording or on the cover of any recording thereof, and his right to object to any distortion, mutilation or other alteration of his performance, to the use and distribution of his recorded performance if the recording has technical or other defects, and also to improper use of recordings that are prejudicial to his honor and reputation.

#### Article 104

**If not otherwise provided by this Law, the performer has the exclusive right to authorise:**

- 1) radio or television broadcast of his performance;**
- 2) communication to the public of his performance by means of a loud-speaker or other technical devices from the room or place the performance is taking place;**
- 3) sound or visual, or sound and visual fixation of the performance;**
- 4) direct or indirect reproduction of his fixed performance in its entirety or in parts;**
- 5) putting into circulation of the original or the copies of his fixed performance including the importation and the rental thereof.**

**The provisions of Article 30, paragraphs 2 and 3, and Article 30a, paragraph 3, of this Law shall apply to the performers' rights in the corresponding way.**

In the cases referred to in the first paragraph of this Article, the performer shall be entitled to remuneration, except where otherwise provided by this Law or by a contract.

Except where otherwise agreed, all performers shall be entitled to remuneration.

Any member of a group of performers who leaves the group shall be entitled to a share in the remuneration for the performance in which he participated.

#### Article 105 (*Deleted*)

#### Article 106

The following shall be permitted without the authorization of the performer and without the payment of remuneration:

1. use of the performance for the purposes of teaching and scientific research;
2. use of short fragments of the performance in the reporting of current events;

3. recording of the performance by the organization for broadcasting, by means of its own facilities and for its own broadcasts (ephemeral recordings), provided that the said organization has been authorized to broadcast the performance.

The recordings referred to in the first paragraph of this Article, subparagraph 3, may after broadcasting be entrusted to public archives as documentary material or be rebroadcast against the payment of a remuneration.

#### Article 107

**If the fixed performance which has been put into circulation is used for the radio or television broadcasting or for other communication to the public (secondary use), the performer shall be entitled to a remuneration.**

**In the absence of the contract for broadcasting or other communication to the public of the performance or in case the contract doesn't fix the amount of the remuneration, the association of performers may obtain the remuneration for the performer in the amount fixed by that association in its Regulations.**

#### Article 108

The rights of the performer who is the employee of an organization shall be governed by the Regulations of that organization, in accordance with this Law.

The moral rights of the performer, as recognized by this Law, may not be limited by the Regulations referred to in the first paragraph of this Article.

The organization of which the performer is the employee may use the said employee's performance without his authorization provided that the performance formed part of his work obligations.

#### Article 109

If the performance of the performer who is an employee goes beyond the bounds of his work obligations, or if it is transferred to another organization, the performer shall be entitled to a remuneration.

### Chapter III

## **TRANSFER OF THE RIGHTS OF PERFORMERS**

#### Article 110

The performer may, during the term of the right of exploitation that is granted to him in relation to his performance, transfer that right by contract to another person (performer's contract), either wholly or in part, with or without the remuneration.

The person to whom the right to exploit a performance has been transferred may not, without the consent of the performer, transfer that right to a third party unless otherwise provided by the performer's contract.

#### Article 111

The performer's contract shall be concluded in writing.

The performer's contract that is not concluded in writing shall have no legal effect.

#### Article 112

The performer's contract shall contain the following: the names of the contracting parties, the medium and manner in which the performance is to be used, the name of the author, the title of the work performed, the amount of remuneration and also the mode of payment and time limits therefor.

In addition to the particulars mentioned in the first paragraph of this Article, the performer's contract relating to the recording of the performance and to the broadcasting of the said recording by radio or television shall also state the number of broadcasts and the period during which broadcasting may take place, while the performer's contract relating to the reproduction of the recording shall state the number of copies that may be made.

### Chapter IV

#### **TERM OF THE RIGHTS OF PERFORMERS**

#### Article 113

The term of the economic rights of performers provided for in this Law shall be **fifty** years, counted,

1. for recorded performances, from the end of the year in which they were recorded;
2. for unrecorded performances, from the end of the year in which they were given.

#### Article 114

The moral rights of the performer shall subsist even after the termination of his economic rights.

### Chapter V

#### **ADMINISTRATION OF THE RIGHTS OF PERFORMERS**

#### Article 115

The performer may exercise his rights directly or through an agent.

#### Article 116

**The activity of administering performers' rights shall be, with the authorisation of the State Intellectual Property Office, carried out by the associations of performers and other holders of the performers' rights as well as by other legal entities specialised for the administration of performers' rights.**

**The Office shall give the authorisation referred to in paragraph 1 of this Article, if the association of performers or, as the case may be, other legal entity meet the criteria of professional knowledge necessary for carrying out activities relating to the administration of performers' rights prescribed in the Regulations by the Director of the Office.**

**For the administration of performers' rights the association of performers or other specialised legal entity referred to in paragraph 1 of this Article, shall need the power of attorney given by the performer, or by other holder of performers' rights."**

**If the association of performers or other legal entity specialised for the administration of performers' rights cease to meet the prescribed criteria for carrying out such activity, the given authorisation shall be put out of effect.**

#### Article 117

Broadcasting organizations and other users shall be obliged to provide the association of performers or other specialised legal entity representing a performer with detailed information concerning the use of his performance.

The users referred to in the first paragraph of this Article shall also be obliged to submit to the association of performers or other specialised legal entity representing a performer a copy of the performer's contract.

#### Article 118

Groups of performers shall exercise their rights through the persons authorized by them.

When, in addition to the group of performers, a conductor, soloists and leading actors who are not members of the group take part in the performance of a musical work or the presentation of any other artistic work, the right of authorization referred to in Article 104 of this Law shall belong also to those additional performers, in the absence of any agreement to the contrary between them and the group.

## Chapter VI

**PROTECTION OF THE RIGHTS OF PERFORMERS**

## Article 119

A performer whose economic or moral right has been infringed, may demand the protection of that right and claim the damage for the harm suffered by the infringement.

At the request of the defendant whose performers' right has been infringed, the court may order in its decision:

- 1) that the defendant be prohibited to continue his infringement of the right;
- 2) that the objects by means of which the infringement of the right was committed be destroyed or modified;
- 3) that the judgment be published at the expense of the defendant.

**On the proposal of the performer or other holder of the performers' rights, or their association, or other legal entity specialised for the administration of performers' rights, whereby it is made likely that the performer's right has been infringed, or that the infringement is imminent, the court may order:**

**1) the temporary seizure or withdrawal from circulation of the objects or means respectively infringing the performers' rights or the infringement of the performers' rights, or resulting from such infringement, or the objects or means respectively which may serve as evidence of the committed infringement of the performers' rights;**

**2) the prohibition of the continuation of activities already started which might infringe the performers' rights, or the prohibition of the continuation of activities infringing the performers' rights.**

**If there is a risk that the later provision of evidence concerning the infringement of the performers' rights could be difficult or impossible, or if there is a risk of irreparable damage, or if there is a risk that the provisional measures laid down in paragraph 3 of this Article wouldn't be effective, the court shall order such measures without previously notifying the other party to that effect".**

**The procedure concerning the request for ordering provisional measures shall be urgent.**

**The corresponding provisions of the Law on Enforcement shall be applied to all other matters concerning the ordering of provisional measures not regulated by this Law.**

## Article 120

When the user of a performance, at the time of use, fails to mention the name or pseudonym of the performer as provided in Article 103 of this Law, the performer in question may require the prohibition of any further infringements of the same kind, the subsequent publication, in an appropriate manner, of the said name or pseudonym, and the compensation for damages.

## **Part Two A**

### **RIGHTS OF THE PRODUCERS OF PHONOGRAMS**

#### **Article 120a**

**Producer of phonograms shall be considered the person who first fixes the sounds of a performance or other sounds.**

**If not otherwise provided by this Law, producers of phonograms shall have the exclusive right of giving authorisations for:**

- 1) the direct or indirect reproduction, in whole or in part, of their phonograms;**
- 2) putting into circulation of the original or copies of their phonograms, including the importation and rental thereof ;**

**In cases referred to in paragraph 2 of this Article, producers of phonograms shall have the right to a remuneration, if not otherwise provided by this Law or by a contract.**

**Producers of phonograms shall also have the right to a remuneration in the case where the phonogram which is put into circulation is used for the radio or television broadcast or for other communication to the public (secondary use).**

**The rights of the producers of phonograms shall last for fifty years, counting from the end of the year in which the phonogram was published, and if it has not been published, from the end of the year in which the fixation took place.**

**The provisions referred to in Article 30, paragraphs 2, and 3, Article 30a, paragraph 3, and Articles 106, 115, 116, 117, and 119 of this Law shall apply to the rights of the producers of phonograms in a corresponding way.**

**The foreign producers of phonograms shall have the rights prescribed by this Law within the framework of the obligations assumed by the Republic of Croatia under international treaties or on the basis of the de facto reciprocity.**

**The rights of the producers of phonograms shall not, in any way, prejudice the rights of authors or the rights of performers.**

## **Part Two B**

## **RIGHTS OF THE BROADCASTING ORGANIZATIONS**

### **Article 120b**

If not otherwise provided by this Law, a broadcasting organization has the exclusive right to authorise:

- 1) the re-broadcasting of their broadcasts by wire or wireless means;
- 2) the fixation of their broadcasts;
- 3) the reproduction of fixations of their broadcasts;
- 4) the communication to the public of their television broadcasts, if such communication is accessible to the public against the payment of an entrance fee.

Broadcasting is, within the meaning of this Law, any transmission by wire or wireless means or by satellite intended for the public reception of sounds, or of images and sounds, or the representation thereof, including the transmission by the encrypted satellite signal where the means for decrypting such a signal are provided to the public by the broadcasting organization or with its authorisation.

In cases referred to in paragraph 1 of this Article, the broadcasting organization shall have the right to a remuneration, if not otherwise prescribed by this Law or by a contract.

The rights of the broadcasting organizations shall last for fifty years, counting from the end of the year in which the broadcasting took place.

The provisions referred to in Article 106 and 119 of this Law shall apply, in a corresponding way, to the rights of the broadcasting organizations.

The foreign broadcasting organizations shall have the rights prescribed by this Law within the framework of the obligations assumed by the Republic of Croatia under international treaties or on the basis of the de facto reciprocity.

The rights of the broadcasting organizations shall not, in any way, prejudice the rights of authors, the rights of performers or the rights of the producers of phonograms.

### **Part Two C**

## **SUPERVISION AND ADMINISTRATIVE MEASURES**

### **Article 120c**

Supervision over the work of associations referred to in Articles 90 and 116 of this Law shall be carried out by the Inspection for Copyright and Related Rights in the State Intellectual Property Office.

The supervision referred to in paragraph 1 of this Article may be carried out by other government employees authorised by the Director of the Office.

**In the course of the control referred to in paragraph 1 of this Article the supervisor shall be entitled to inspect any documentation relating to the activity of administering copyrights, performers' rights and the rights of the producers of phonograms.**

**If, in the course of the control, the supervisor finds out that the association carries out the activity of administering copyrights, or performers' rights, or the rights of the producers of phonograms contrary to the issued authorisation, he shall, in a decision, order the remedy of the found deficiencies within the fixed time limit.**

**In the case referred to in paragraph 4 of this Article, the supervisor shall submit a request for the institution of the magistrate court proceedings regarding the misdemeanor referred to in Article 129a, or 129b of this Law.**

#### **Article 120d**

**The supervision of an importation or transfer across the border line of the original or of the copies of the author's work, of the fixed performance or of the phonogram shall be carried out by the competent customs authority.**

**On the request of the right holders referred to in this Law, the competent customs authorities shall, under conditions and in the manner provided for by the customs provisions, suspend the release into free circulation of unauthorised copies of the authors works, fixed performances, or phonograms respectively.**

**The competent customs authority referred to in paragraph 1 of this Article shall bring criminal charges regarding the commitment of a criminal act, or shall file a request for the institution of the proceedings regarding the misdemeanor respectively, to the competent State authorities.**

### **Part Three**

#### **PENAL PROVISIONS**

*Article 121 (Deleted)*

*Article 122 (Deleted)*

*Article 123 (Deleted)*

*Article 124 (Deleted)*

#### **Article 124a**

**Whoever without the authorisation of the lawful distributor of the encrypted satellite signal, manufactures, assembles, modifies, imports, exports, sells, rents or otherwise distributes a tangible or intangible device or system for decoding such a signal, knowing or having reason to know that the device or the system serves primarily for decoding an encrypted satellite signal,**

**shall be punished for a criminal act by a fine or by imprisonment up to three years (Article 120b, paragraph 2).**

**If the commitment of a criminal act referred to in paragraph 1 of this Article has resulted in a substantial financial gain or has caused a substantial damage, and if the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, she/he**

**shall be punished by imprisonment from 6 months up to five years.**

**The objects intended or used for the commitment of a criminal act or resulting from the commitment of a criminal act referred to in paragraphs 1 and 2 of this Article shall be seized and destroyed.**

#### **Article 124b**

**Whoever receives an encrypted satellite signal that has been decoded without the authorisation of its lawful distributor and further distributes such a signal, knowing or having reasons to know that such a signal is decoded without authorisation,**

**shall be punished for a criminal act by a fine (Article 120b, paragraph 2).**

**If the commitment of a criminal act referred to in paragraph 1 of this Article has resulted in a substantial financial gain or has caused a substantial damage, and if the perpetrator has acted with the aim of acquiring such financial gain or causing such a damage, she/he**

**shall be punished by a fine, or by imprisonment up to three years.**

#### **Article 125**

**Any legal entity shall be punished for a misdemeanor by a fine amounting from 5.000,00 up to 50.000,00 kunas if it:**

**1) without the author's authorisation, and under its own name or under the name of another publishes, presents, performs, transmits or otherwise communicates to the public somebody else's work or allows it to be done (Article 27);**

**2) without the author's authorisation destroys, deforms, distorts or otherwise modifies the author's work, without the author's authorisation, or uses it in a manner which is offensive to the author's honour or reputation (Article 27);**

**3) without indicating the name or the pseudonym of the author, except where the author wants to be anonymous, publishes, presents, performs or otherwise communicates to the public his work (Article 28);**

4) without the authorisation of the author or other holder of copyright, the association of authors or other legal entity specialised for the administration of copyrights referred to in Article 90, paragraph 1 of this Law, where such authorisation is required under the provisions of this Law, or, contrary to their prohibition, publishes, reproduces or multiplies, imports or distributes the original or the copies of the work, presents, performs, fixes on a material surface, broadcasts, communicates through mass media, translates, adapts, arranges, or otherwise alters the author's work or uses it in any other form (Article 30);

5) without the authorisation of the author or other holder of copyright, the association of authors or other legal entity specialised for the administration of copyrights referred to in Article 90, paragraph 1 of this Law, where such authorisation is required under the provisions of this Law, or, contrary to their prohibition rents the original or the copies of the computer program, the cinematographic and analogous work or of the work embodied in the phonogram (Article 30a).

The responsible person in a legal entity shall be also punished for the misdemeanor referred to in paragraph 1 of this Article by a fine amounting from 5.000,00 up to 50.000,00 kunas.

If the misdemeanor referred to in paragraph 1 of this Article has been committed by a natural person, she/he shall be punished by a fine amounting from 1.000,00 up to 5.000,00 kunas.

#### Article 126

A legal entity shall be punished for a misdemeanor by a fine amounting from 5.000,00 up to 50.000,00 kunas if it:

1) without the performer's authorisation, and under its name or under the name of another, publishes, presents, performs, transmits or otherwise communicates to the public somebody else's performance or allows it to be done (Article 103, paragraph 3);

2) without indicating the name or the pseudonym of the performer, except where the performer wants to be anonymous, publishes, presents, transmits or otherwise communicates to the public his performance ( Article 103, paragraph 3);

3) without the performer's authorisation, destroys, deforms, distorts, or otherwise modifies his fixed performance, or uses it in a manner which is offensive to the performer's honour or reputation (Article 103, paragraph 3);

4) without the authorisation of the performer or other holder of the performer's right, the association of performers, or other legal entity specialised for the administration of the performers' rights referred to in Article 116, paragraph 1 of this Law, where such authorisation is required under the provisions of this Law, or, contrary to their prohibition, broadcasts or communicates the performance to the public, fixes the performance, reproduces the fixed performance, imports, distributes or rents the original or copies of the fixed performance (Article 104);

The responsible person in a legal entity shall be also punished for the misdemeanor referred to in paragraph 1 of this Article by a fine amounting from 5.000,00 up to 50.000,00 kunas.

If the misdemeanor referred to in paragraph 1 of this Article has been committed by a natural person, she/he shall be punished by a fine amounting from 1.000,00 up to 5.000,00 kunas.

#### Article 126a

A legal entity, which without the authorisation of the producer of a phonogram, where such authorisation is required under the provisions of this Law, or, contrary to their prohibition, reproduces, imports, distributes or rents the original or the copies of the phonogram (Article 120a, paragraph 2), shall be punished for a misdemeanor by a fine amounting from 5.000,00 up to 50.000,00 kunas;

The responsible person in a legal entity shall be also punished for the misdemeanor referred to in paragraph 1 of this Article by a fine amounting from 5.000,00 up to 50.000,00 kunas.

If the misdemeanor referred to in paragraph 1 of this Article has been committed by a natural person, she/he shall be punished by a fine amounting from 1.000,00 up to 5.000,00 kunas.

#### Article 126b

The legal entity shall be punished for a misdemeanor by a fine amounting from 5.000,00 up to 50.000,00 kunas, if it:

1) without the authorisation of the broadcasting organization, where such authorisation is required under the provisions of this Law, or contrary to its prohibition, re-broadcasts or fixes its broadcast, reproduces the fixation of its broadcast or communicates to the public its television broadcast (Article 120b, paragraph 1);

2) without the authorisation of the lawful distributor of the encrypted satellite signal manufactures or assembles, modifies, imports, exports, sells, rents or otherwise distributes a tangible or intangible device or system for decoding such a signal, if such a device or system is primarily used for decoding the encrypted satellite signal (Article 120b, paragraph 2);

3) receives an encrypted satellite signal that has been decoded without the authorisation of its lawful distributor or further distributes such a signal (Article 120b, paragraph 2).

The responsible person in a legal entity shall be also punished for the misdemeanor referred to in paragraph 1 of this Article by a fine amounting from 5.000,00 up to 50.000,00 kunas.

If the misdemeanor referred to in paragraph 1 of this Article is committed by a natural person she/he shall be punished by a fine amounting from 1.000,00 up to 5.000,00 kunas.

#### Article 127

A precautionary measure shall be ordered comprising the seizure of the objects intended or used for, or resulting from, the commitment of misdemeanors referred to in

Articles 125, 126, 126a and 126b, of this Law, irrespective of whether they are the property of the perpetrator or not.

The decision relating to the misdemeanor referred to in paragraph 1 of this Article shall order the destruction of the seized objects.

#### Article 128

A legal entity which doesn't submit complete information on the performance or on the presentation of the work to the association of performers or to other legal entity specialised for the administration of performers' rights (Article 94), shall be punished for a misdemeanor by a fine amounting from 3.000,00 up to 30.000,00.

The responsible person in the legal entity shall be also punished for the misdemeanor referred to in paragraph 1 of this Article by a fine amounting from 3.000,00 up to 30.000,00 kunas.

If the misdemeanor referred to in paragraph 1 of this Article is committed by a natural person she/he shall be punished by a fine amounting from 1.000,00 up to 5.000,00 kunas.

#### Article 129

A legal entity which doesn't submit complete information on the use of the performance, or the copy of the performer's contract to the association of performers or to other legal entity specialised for the administration of performers' rights (Article 117), shall be punished for the misdemeanor by a fine amounting from 3.000,00 up to 30.000,00.

The responsible person in the legal entity shall be also punished for the misdemeanor referred to in paragraph 1 of this Article, by a fine amounting from 3.000,00 up to 30.000,00 kunas.

If the misdemeanor referred to in paragraph 1 of this Article is committed by a natural person she/he shall be punished by a fine amounting from 1.000,00 up to 5.000,00 kunas.

#### Article 129a

A legal entity which performs the activity of administering copyrights, performers' rights or rights of the producers of phonograms without the authorization of the Office, or contrary to its authorisation, (Article 90, paragraph 1, and Article 116, paragraph 1) shall be punished for a misdemeanor by a fine amounting from 5.000,00 up to 50.000,00 kunas.

The responsible person in a legal entity shall be also punished for the misdemeanor referred to in paragraph 1 of this Article, by a fine amounting from 5.000,00 up to 50.000,00 kunas.

If the misdemeanor referred to in paragraph 1 of this Article has been committed by a natural person, she/he shall be punished by a fine amounting from 1.000,00 up to 5.000,00 kunas.

### Article 129b

A legal entity which commits the misdemeanor referred to in Articles 125, 126, 126a, 126b, 128, 129 and 129a of this Law for the purpose of acquiring financial gain, shall be punished by a fine amounting from 20.000,00 up to 200.000,00 kunas.

The responsible person in a legal entity shall be also punished for misdemeanors referred to in paragraph 1 of this Article, by a fine amounting from 20.000,00 up to 200.000,00 kunas.

If the misdemeanor referred to in paragraph 1 of this Article is committed by a natural person for the purpose of acquiring financial gain, she/he shall be punished by a fine amounting from 5.000,00 up to 20.000,00 kunas.

## Part Four

### TRANSITIONAL AND FINAL PROVISIONS

#### Article 130

This Law (June 30, 1999)\* shall apply to all authors' works and to all performers' performances in respect of which economic rights have not ceased to exist up to the day of entering into force of this Law (June 30, 1999).

#### Article 131

This Law (June 30, 1999) shall also apply to the phonograms and to the performances fixed thereon, the first fixation of which took place within fifty years prior to the beginning of the calendar year in which this Law (June 30, 1999) entered into force.

#### Article 132

Pending procedures instituted under Articles 96, 98, 119, and 120 of this Law ("Official Gazette of the Republic of Croatia", No. 9/99) for the purpose of protecting the rights of authors and the rights of performers shall be carried out in compliance with the provisions being in force up to the date of entry into force of this Law (June 30, 1999).

#### Article 133

The Regulations referred to in Articles 90, and 116 of this Law ("Official Gazette of the Republic of Croatia", No. 9/99) will be enacted by the Director of the State

**Intellectual Property Office within the period of six months counting from the date of entry into force of this Law (June 30, 1999).**

#### **Article 134**

**This Law (June 30, 1999) shall enter into force on the eighth day following its publication in the “Official Gazette of the Republic of Croatia”.**

**\* as Enacted on June 30, 1999**