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L A W

ON COPYRIGHT AND
RELATED RIGHTS

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CHAPTER I

GENERAL PROVISIONS

Art. 1

This¹ Law regulates the right of authors in their works of literature, science and art (hereinafter "copyright") and the rights of performers, producers of phonograms, film producers and stage producers, broadcasting organizations, and² **publishers and makers of databases**³ (hereinafter "related rights") in their performances and other subject matter of related rights, as well as the implementation and protection of copyright and related rights.

Art. 2

Within the meaning of this Law

- 1) "public" means the availability of a copyright work, under equal conditions, to an unspecified number of persons outside the usual family circle or the circle of personal acquaintances;
- 2) "disclosure" means making available to the public of a copyright work, in any manner or form. **The disclosure is expressed in material form - reproduction, distribution, publication and rental, in immaterial form (hereinafter: communication to the public) - public performance, public transmission, making available to the public, public presentation, public exhibition, broadcasting and rebroadcasting and in a modified form - modification;**
- 3) "reproduction" means making a copy of a copyright work **or a part thereof**, fixed on a material medium, **directly or indirectly, temporarily or permanently**, regardless of the type of copy, the number of copies and the method. **The reproducing is performed, especially: in the form of graphic replication, three dimensional replication, building or construction of an architectural structure, photographing, audio and visual recording, as well as keeping in electronic form.;**
- 4) "distribution" means putting into circulation or offering to the public an original or a copy of a copyright work by sale or other form of transfer of ownership, including the importation of an original or a copy for further circulation, **regardless of whether they have been legally made;**
- 5) "publication" means reproduction of a copyright work in a sufficient number of copies and their distribution;
- 6) "rental" means offering the use of an original or a copy of a copyright work for a limited period of time, for the purpose of direct or indirect economic benefit. **The rental does not apply to: architectural works and originals or copies of works pertaining to applied arts and design;**
- 7) "public performance" means live disclosure, or disclosure via **with or without the help of** technical means, of a literary or musical work, including live disclosure of a stage work;
- 8) "public transmission" means disclosure of a performance or other use of copyright outside the space or place of performance or other use, regardless of the means, manner and method of transmission (loudspeaker, screen and the like);
- 9. "Making available to the public" means that the work has become (or has been made) available to the public, by wire or wireless, in a way that every entity individually can have access to the work from a place and in a time individually chosen by the entity or the work becomes available for everybody on a basis of an offer, intended for the public;"**
- 9) 10. "public presentation" means disclosure, via technical means, of a cinematographic or other audiovisual work or work of photography, fine art, architecture, urbanism, applied art, design, cartography and works of a scientific and technical nature;

¹ Normal text: Current text of the law

² Underlined text: Words or provisions that are deleted or replaced in the Law

³ Bold text: Words or provisions that modify and augment the Law and proposed alternatives

10) 11. "public exhibition" means disclosure of an original or a copy of a work of fine art or photography or a work produced in a manner analogous to photography, a work of applied art, design, as well as works of a scientific and technical nature;

11) 12 "broadcasting" means disclosure of copyright works via radio and television program signals, wireless, including satellite in coded or non-coded forms or by wire, including cable or microwave systems. Broadcasting also covers transmission via television program signals on demand. **Broadcasting through a satellite occurs when, under the control and responsibility of the broadcasting organization, the program carrying signals intended for reception by the public are sent into an uninterrupted chain of communication leading to the satellite and down towards the earth. If the program carrying signals are encrypted , the broadcasting through a satellite is considered valid provided that the means for decrypting the broadcast are available to the public through the broadcasting organization or through another entity with its consent;**

12) 13. "rebroadcasting" means simultaneous, complete and unaltered disclosure of a work already broadcast, when done by other radio or television organization or when transmitted via cable or microwave systems and involving more than 100 cable connections or the work is initially transmitted from another country (cable retransmission);

13) 14. "modification" means translation, reworking, adaptation, arrangement or other method of transformation of an original copyright work.

CHAPTER II

COPYRIGHT

Section 1

Copyright Work

Art. 3

A copyright work, within the meaning of this Law, is an individual and intellectual creation of literature, science, the arts and other domains of creation, regardless of the type, manner and form of expression, unless otherwise provided in this Law.

A copyright work shall include, in particular,

- a written work such as a literary work, article, essay, manual, brochure, scientific study, treatise and the like;
- a computer program, as a literary work;
- a spoken work, such as an address, sermon, lecture and the like;
- a musical work with or without words;
- a dramatic, dramatic-musical work and a work of puppetry;
- a choreographic work and a work of pantomime, fixed on a material medium;
- a photographic work and a work produced in a manner analogous to photography;
- a cinematographic and other audiovisual work;
- a work of fine art, such as a painting, graphics, sculpture and the like;
- an architectural work;
- a work of applied art and design;
- a cartographic work, plan, sketch, technical drawing, project, table, plastic work and other work of identical or similar character in the domain of geography, topography, architecture or other scientific, educational, technical or artistic nature.

Art. 4

Component parts and the title of a copyright work that are individual intellectual creations by themselves shall enjoy the same protection as the work itself.

It shall not be permitted to use for the title of a copyright work a title that has already been used for a work of the same type, if that title would create or would lead to confusion in respect of the copyright work.

Art. 5

An idea, concept, discovery or an official text from the legislative, executive or judicial sphere and their translation when published as an official text (hereinafter "other work"), within the meaning of this Law, shall not be considered a copyright work.

Art. 6

The modification of a copyright work, other work or a work of folk literature and folk art **folklore works** that is an individual and intellectual creation shall be considered an independent copyright work.

The modification of a copyright work that in any way affects the rights of the author of the original work shall not be permitted.

Art. 7

A collection of copyright works, of works of folk literature and folk art **folklore works**, other works or other materials such as encyclopaedia, anthology, miscellany, database, collection of documents and other collections which, according to the selection, purpose or arrangement of their contents, constitute individual and intellectual creations, shall be an independent copyright work.

The data bases from item 1 of this article, as copyright works are collections of individual copyright works, folklore works and other works, data or other material in any form, which according to the choice, intention and breakdown of the contents are collected and arranged systematically and methodologically and are available individually by electronic or other means.

The inclusion of an original work in a collection may not infringe the authors' rights in such work.

The protection determined in this article does not include the computer programs used in the creation or operation of the electronic databases

The inclusion of another work or other material in a collection shall not make that work or other material a copyright work.

Art. 8

Works of folk literature and folk art **folklore works** shall be used in accordance with this Law.

Section 2

The Author

Art. 9

The author, within the meaning of this Law, is a natural person who has created a copyright work.

Art. 10

A person whose name, pseudonym or designation is denoted in the customary manner on the work or is stated at the time of its disclosure shall be considered as an author, until proved to the contrary.

Where the author is unknown, the person who discloses the work shall be entitled to exercise author's copyright.

The provision of this Article, paragraph 2, shall cease to be valid when the author has been identified. In that case, the copyright holder of paragraph 2 is obligated to assign to the author the benefits deriving from the author's copyright, unless otherwise provided by contract.

Art. 11

If the copyright work created by two or more persons in collaboration constitutes an indivisible whole, to all the persons (hereafter co-authors) shall be appertained an indivisible copyright of that work.

The share of each co-author shall be determined in proportion with real contribution of each one to the creation of the copyright work, unless otherwise determined by contract between them.

All co-authors shall jointly decide about the use of the work of this Article, paragraph 1, and none of them shall have the right to prevent the use of the work contrary to the principles of good reason and good faith.

If a copyright work, within the meaning of this Article, paragraph 1, constitutes a divisible whole, each co-author shall have a copyright of his contribution to the work.

Art. 12

If several authors gather their works for the purpose of joint use, the provisions from Article 11 of this Law consequently shall be applied.

Section 3 ***Contents of Copyright***

Subsection 1 *General Provisions*

Art. 13

Copyright belongs to the author on the basis of the creation of the work, regardless whether it has been disclosed.

Art. 14

Copyright is an integral and inseparable right from the copyright work, which comprises exclusive personal powers (hereafter moral rights), exclusive property powers (hereafter economic rights) and the other powers of an author (hereafter other rights).

Subsection 2 *Moral Rights*

Art. 15

Moral rights shall protect the author in respect with his personal and intellectual reference to the work.

Art. 16

The author shall have an exclusive moral right to:

- decide whether, when and how his work shall be disclosed for the first time;
- recognition of the authorship of his work;
- determine whether his authorship shall be specified at the time of disclosure of the work and the type of denotation therefore;
- demand for his name, pseudonym or other denotation to be mentioned on every use of his work in customary manner;
- protect the integrity of the work and prohibit any distortion, mutilation or alteration of the work, and to object to any use of the work which would be prejudicial to his personality, honour or reputation;
- alter the work insofar as this does not infringe the rights acquired by other persons; and
- withdraw the right of the holder of his economic right, according to this Law.

Art. 17

The author shall have the exclusive right to withdraw the assigned economic rights from the holder thereof, if he has real moral reasons for doing so and if he has previously indemnified the holder for the damage caused by such withdrawal.

The holder of this Article, paragraph 1, shall be obligated within three months of his receipt of the withdrawal to notify the author of the amount of damages which should be indemnified. If he does not do that, the withdrawal shall become valid on the expiration of the said time period.

On the exercise of the right of withdrawal from this Article, paragraph 1, the economic right of the holder shall lapse.

If the author wishes later to reassign the economic right in his work, he shall be obligated, within a period of three years after the validity of the right of withdrawal, to offer such an assignment first and under the same conditions to the previous holder of this Article, paragraph 1.

The provisions of this article shall not apply to computer program, audiovisual work, stage work and databases.

Subsection 3 Economic Rights

Art. 18

Economic rights shall protect the property interests of the author.

The use of the copyright work shall be permitted if the author has assigned economic right according to this Law and to the conditions he has determined, unless otherwise provided by this Law.

Art. 19

The author shall have the exclusive economic right to use his work and to authorize or prohibit the use of the work by other persons, in particular for: reproduction, distribution, rental, public performance, public transmission, **making available to the public**, public presentation, public exhibition, broadcasting, rebroadcasting and modification.

The author of the original work has an exclusive right to use his modified work, unless otherwise provided by this Law or by contract.

Subsection 4 Other Rights of the Author

Art. 20

The author shall have a right of access to the original or to a copy of his work in possession of another person, for the purpose of exercising the right of reproduction or modification of the work if this does not adversely affect the legitimate interest of the possessor.

The author shall have the right to demand from the possessor to deliver him the original of the work of fine art or of the photographic work for the purpose of public exhibition or other form of disclosure, if there is a legitimate interest therein.

The delivery of the original from this Article, paragraph 2, may be conditioned by guarantee deposit or by insurance in the amount of the market value of the original.

The author shall be obligated to carry out the access and delivery of this Article, paragraphs 1 and 2, with the least possible inconvenience to the possessor and at his own expense. The author shall be liable in case of damage to the work, regardless of his fault.

Art. 21

If the original of a work of fine art or the original (manuscript) of a literary or musical work is sold or disposed in some other way, its author shall have the right to be notified and to obtain remuneration in amount of 3% of the retail price of every subsequent resale (hereafter right of resale royalty).

The possessor of the work shall be liable for the obligations of this Article, paragraph 1. If the transfer of ownership is effected through a gallery owner, auction organizer or other agent, the mentioned persons shall be jointly liable with the possessor of the work.

The obligation of notification from this Article, paragraph 1, refers to the particulars of the titles of the transferred works, of the possessor and the agent, of the retail selling price, and of the author's right to inspect the documents which contain such particulars.

The resale royalty right may not be subject to revocation, disposition and judicial execution.

Art. 21

If the original of a work of art is sold or disposed in some other way, its author shall have the right to be notified and to receive remuneration from every subsequent sale (hereafter right of resale royalty) in the amount of:

- **4% of the sales price up to 50,000 EURO in denar value;**
- **3% of the sales price from 50.000,01 to 200.000 EURO in denar value;**
- **1% of the sales price from 200.000,01 to 350.000 EURO in denar value;**
- **0,5% of the sales price for the part of the price from 350.000,01 to 500.000 EURO in denar value;**
- **0,25% of the sales price for the part of the price above 500.000 EURO in denar value, and the highest amount of the remuneration is 12.500 EURO in denar value;**

The sales price from item 1 of this article is a net value without tax,

"An original art work" within the meaning of this article is a work of graphic or plastic art, such as: canvases, collages, pictures, drawings, carvings, engravings, lithographs, sculptures, tapestries, ceramic, glasswork and photographs. Copies of the above mentioned works, which have been created by the author or with the author's consent, in limited quantities, will be considered as originals and they are usually numbered, signed or in another way appropriately approved by the author.

The author's remuneration from item 1 is paid by the retailer, or the gallery person, the organizer of a public sale, the art gallery or another agent that performs sales of art works and has the obligation of notification from item 1 of this article.

The obligations of notification from item 1 of this article refer to the particulars of the titles

and the disposed works, to the particulars of the owner and the agent, particulars of the sales contracts and of the certificates for authenticity of the works, of the sales price and of the author's right to inspect documents which contain such particulars.

The right of resale royalty from item 1 of this article can not be subject to revocation, disposition and judicial execution.

Art 21-a

If the original (manuscript) of a literary or musical work is sold or disposed in some other way, its author shall have the right to be notified and to receive remuneration in the amount of 3% from the sales price expressed as a net value without tax from every subsequent sale.

The author's remuneration from item 1 is paid by the retailer, or the gallery person, the organizer of a public sale, the art gallery or another agent that performs sales of art works and has the obligation of notification from item 1 of this article.

The obligations of notification from item 1 of this article refer to the particulars of the titles and the disposed works, to the particulars of the owner and the agent, particulars of the sales contracts and of the certificates for authenticity of the works, of the sales price and of the author's right to inspect documents which contain such particulars.

The right of resale royalty from item 1 of this article can not be subject to revocation, disposition and judicial execution.

Art 21-b

The author is entitled to an appropriate remuneration if an original or a copy of a copyright work is used for a determined period of time, without direct or indirect economic benefit through public institutions as public lending.

The right of public landing does not apply to utilization of: architectural works or copies of works from the filed of fine art and design, original and written works and copies of phonograms in public libraries, originals and copies of videograms containing cinematographic and other audio visual works and film archives and institutions in the field of education and the originals and copies and the fine art and photographic works in the national galleries and museums.

The right of lending of originals or copies of a computer program and databases represents an exclusive right of the author.

Subsection 5

Relations Between Copyright and Right of Ownership

Art. 22

Copyright is independent of and compatible with ownership or other property rights over an object where the copyright work is incorporated in, unless otherwise provided by Law.

Art. 23

The transfer of certain economic rights or other rights of the author of the work shall not affect the ownership right to the object where the copyright work is incorporated in, unless otherwise provided by Law or contract.

The transfer of the right of ownership of the object from this Article, paragraph 1, shall not affect the moral, economic or other rights of the author of the work, unless otherwise provided by Law or contract.

Art. 24

Joint property of spouses shall include only the economic benefits deriving from the copyright.

Art. 25

With the first sale or other type of transfer of ownership rights of an original or copy of a copyright work in the Republic of Macedonia, carried out by explicit or tacit consent of the right holder, it shall be considered that the right of distribution of such original or a copy in the territory of the Republic of Macedonia has been exhausted.

The exhaustion of the right of distribution does not exhaust the author's right of renting and public lending.

Art. 26

If the owner of an architectural structure intends to modify that work he shall be obligated to offer that modification prior to the author of the original work if he is alive and available in a customary manner.

If the author unjustifiably refuses the offer from this Article, paragraph 1, the owner of that work has gained the right of modification, but, however, he shall be obligated to respect the author's moral rights.

Art. 27

If the owner of the original of the copyright work, bearing in mind the circumstances of the case, assumes that the author has an interest in its preservation, he shall be obligated not to destroy such original before it was offered to the author, and the author shall be obligated to pay the value of the material which the original has been made from.

If the return of the work to its author from this Article, paragraph 1 is not possible, the owner shall give opportunity to the author to make a copy of the original work in an appropriate manner.

In a case when the copyright work, from this Article, paragraph 1 is an architectural structure, the author shall have the right to take photographs of the work and to be enabled access to make a cartographic record of it, that is to make a measurement survey of the structure, and to demand the delivery of photocopies of designs at his own expense.

Section 4***Limitations of the Economic Right***

Art. 28

Usage of a copyright work without assignment of an appropriate economic right can be carried out only over already disclosed copyright work in cases determined by this Law, with remuneration (hereafter legal licences) and without remuneration (hereafter free use).

The use from this Article, paragraph 1, shall be carried out according to the purpose and the aim and to the customary use of the work, and not more than necessary against the interests of the author.

Through the use from this Article, paragraph 1, the source and the author of the work shall be named, provided these are mentioned in the work used, **and against his moral rights.**

*Subsection 1**Legal Licenses*

Art. 29

It shall be permissible by Law using a copyright work in the following cases:

- disclosure or reproduction of parts of copyright works as well as works of photography, fine and applied art, architecture, design and cartography, for teaching purposes and
- disclosure of articles on current topics in daily or periodical press discussing general issues if the author has not expressly prohibited.

Art. 30

It is permitted by law for broadcasting organizations to broadcast fixations of copyright works recorded by **own** means of mechanical reproduction, or similar means, except of audiovisual works.

Subsection 2

Free Use

Art. 31

A copyright work shall be in free use for the purpose of acquiring informations of general significance, for teaching purposes, for private and other individual reproduction, quotation and other cases, according to this Law.

Art. 32

For the purpose of acquiring information of general significance, disclosure shall be free:

- for works that are seen or heard during reports on daily events;
- for public political speeches and public speeches before state, religious and other bodies; and
- for daily news and press information.

Art. 33

For teaching purposes public performing of a copyright work shall be free:

- in the direct teaching form; and
- on humanitarian manifestations and at school performances to which admission is free, if the participants in these manifestations or performances are not remunerated.

For teaching purposes the rebroadcasting of radio and television program shall be free

Art. 34

Reproduction of a copyright work, if made in not more than three copies, shall be free:

- for private use by a natural person conditioned by the unavailability of the copies to the public;
- for internal use by public institutions (archives, libraries, film-archives and cultural, educational, scientific and similar institutions) conditioned for the reproductions to be made from their own copy.

Within the meaning of this Article, paragraph 1, reproduction shall not apply to a literary work to the extent of an whole book (except when the edition has been done up at least two years before), cinematographic or other audiovisual work or phonogram, graphic edition of a musical work (except a handwritten transcription), database, computer program, as well as architectural structure, unless otherwise provided by this Law.

Art. 35

For the purpose of clarification, **illustration**, debate or reference, it shall be free to quote a copyright work to the extent adequate to the purpose and the aim of use.

A photographic work, a work of fine art, applied art, design, architecture and cartography can be disclosed in its entirety if that suits the intentions and purposes of utilization.

Art. 36

The use of a copyright work of secondary importance in relation to the purpose of some object shall be free while the exploitation of the object.

Art. 37

Modification of a copyright work is permissible if it is a matter of:

- a private or other individual modification not intended or available to the public;
- a modification into a parody or caricature, if this does not lead to a confusion with regard to the source of the work;
- a modification for a permitted use, and the author's objection to such modification is contrary to the principle of the reason and good faith.

Art 37-a

A legal user of disclosed databases or copies thereof can freely reproduce or modify the database, if that is necessary for the purposes of accessing the appropriate contents and their normal utilization. If the user has authorization only for a part of the database, this provision applies only on that part.

Each provision of the contract to the contrary to item 1 of this article is void.

Art. 38

Copyright works displayed at public exhibitions, sales, auctions, fairs and alike shall be disclosed in catalogues for that purpose by the organizers thereof.

Art. 39

Copyright works permanently exposed in parks, streets, squares or other public places shall be used freely, except when the use is in a three-dimensional form, for the same purpose as the original work or for obtaining an economic benefit.

Art. 40

Copyright work shall be used freely before an arbitration court, judicial, administrative or other State bodies, to the extent necessary for evidentiary purposes.

Art. 41

Copyright work shall be used freely to the extent necessary to test the operation at the time of manufacture or sale of phonograms or videograms, equipment for their reproduction or disclosure, as well as programs receiving equipment in the process of their manufacture and sale.

Art. 42

Works of folk literature and folk art **folklore works** shall be used freely.

On the use of this Article, paragraph 1, the source and origin of the work must be stated. Distortion and indecent use of the work is not permissible.

The "Marko Cepenkov" Folklore Institute in Skopje is authorised for implementation of the rights from this Article, paragraph 2.

Section 5

Duration of Copyright

Art. 43

Copyright shall subsist until expiration of the terms as determined by this Law.

As an exception of this Article, paragraph 1, certain moral rights shall subsist upon the expiration of the term of duration of the copyright, according to this Law.

Art. 44

Copyright shall subsist for the lifetime of the author and for 70 years after his death, unless otherwise provided by this Law.

Art. 45

Where the work has been created by a number of authors (co-authors), the term of duration as per Article 44 of this Law shall be calculated from the death of the last surviving co-author.

Art. 46

Copyright of anonymous and pseudonymous works shall subsist for 70 years after the legal disclosure of the work.

If the pseudonym does not cause a confusion as to the identity of the author, or if the author discloses his identity within the term referred to this Article, paragraph 1, the term from the Article 44 shall apply.

Art. 47

Copyright of audiovisual and collective works shall subsist for 70 years after the legal disclosure of the work.

Art. 48

Where the term according to this Law does not run from the death of the author or the authors and the work has not been legally disclosed within 70 years from its creation, the copyright shall subsist for 70 years after its creation.

Art. 49

In a case when the term of duration of the copyright, within the meaning of this Law, is calculated according to the legal disclosure of the work and the work is disclosed in collections, parts, instalments and alike, the term shall be calculated separately for each component.

Art. 50

Insubstantial additional alterations to the contents of a collection shall not extend the duration of the copyright protection of such collection.

Insubstantial additional alterations from this Article, paragraph 1, shall be considered additions, deletions or alterations to the selection or the contents arrangement of the collection necessary for its further use in the manner determined by its author.

Art. 51

The terms of duration of the copyright protection determined by this Law shall begin to run from the first of January of the year following the event, which shall be a basis for calculation of the terms.

Art. 52

The moral right of withdrawal from Article 17 of this Law shall subsist for the life of the author.

The moral rights of denotation the authorship, preservation the work integrity and objection to its deformation from Article 16, items 3, 4 and 5 of this Law, shall subsist on the expiration of the terms of the copyright duration determined by this Law.

Art. 53

The use of a copyright work shall be free on the expiration of the terms of the copyright duration determined by this Law.

Art. 54

For the purpose of implementation of the rights from Article 52, paragraph 2, the relevant society of authors and the Macedonian Academy of Sciences and Arts shall be authorized.

CHAPTER III

TRANSFER OF COPYRIGHT

Section 1

General Provisions

Art. 55

Copyright as an entirety may not be transferable.

Art. 56

The author may not assign his moral rights to other persons.

For the purpose of implementation of the author's moral rights after his death, the relevant society of authors shall be authorized, in addition to the author's successors.

Art. 57

The author may assign certain economic rights and certain other rights to other persons either by contract or in another legal manner unless otherwise provided by this Law.

The assignment of economic rights or other rights shall be carried out in written form, unless otherwise provided by Law. **The transfer of the material rights or other rights of the author is done in written form, by contract or another legal manner, unless otherwise specified within this law.** An assignment contract that is not concluded in written form does not produce legal effectiveness.

An assignment contract from this Article, paragraph 2 shall include in particular: type of rights to be assigned, their scope and duration, territory of the rights' effectiveness, term for the disclosure of the work and author's remuneration.

Disputed or dubious provisions of the contracts from this Article, paragraph 1, shall be interpreted in the author's interest.

Art. 58

The provisions concerning author's contracts in written form from Article 57 of this Law do not refer to contract for disclosing articles, drawings or texts in magazines, reviews or other daily or periodical press.

Art. 59

A contract or a contractual provision which the author has assigned to another person shall be null and void in:

- the copyright in its entirety;
- the moral rights;
- the economic rights to his future works;
- the economic rights to yet unknown forms of use of the copyright works.

Art. 60

The regulations concerning obligatory relations shall apply to the copyright assignment contracts, unless otherwise determined by this Law.

Art. 61

Judicial execution on copyright shall not be permitted.

Judicial execution shall be possible only to the material benefit arising from copyright.

Judicial execution to uncompleted copyright work and to undisclosed original of copyright work shall not be permitted.

Art. 62

The rights to which the author is entitled to under this Law, including the right of legal protection, shall also belong to another copyright holder, to the extent assigned to him by Law or another legal regulation, unless otherwise determined by this Law.

Art. 63

By the contract from Article 57 of this Law exclusive and non-exclusive economic right shall be assigned.

Art. 64

Exclusive economic right, within the meaning of this Law, shall be a right for the copyright holder to use the work, which use the author or any other person is excluded from.

Non-exclusive economic right, within the meaning of this Law, shall be a right for the copyright holder to use the work besides the author and other holders in agreed manner.

If the author concludes a contract on non-exclusive right before concluding contract on exclusive right, the right holder shall be the holder of exclusive right, unless otherwise agreed between the author and the holder of the non-exclusive right.

Art. 65

Unless otherwise determined by Law or by contract, it shall be considered that the non-exclusive right has been assigned by contract, for the territory of the Republic of Macedonia and for the time customary for such type of works.

If it has not been determined which certain rights shall be assigned and the extent, it shall be considered that only those rights have been assigned, and to the extent, which is required for the achievement of the purpose of the contract, within the meaning of this Article, paragraph 1.

Art. 66

The assignment of an economic or other right to the author shall not affect the assignment of other rights, unless otherwise determined by this Law or by contract.

The assignment of the right of reproduction shall not include the right of electronic storage, as well as the right of sound or visual recording, unless otherwise provided by Law or by contract.

On the assignment of right on rental of phonograms or videograms, the author shall retain the right to equitable remuneration for each rental. An author may not waive this right.

Art. 67

By assignment of the right of reproduction, it shall be considered that the right of distribution of such copies of the work has also been assigned.

By assignment of the right of broadcasting of works, it shall be considered that the rights have been assigned to the broadcasting organization (hereafter broadcaster) for:

- fixation of the work with its own means and for its own broadcasts (ephemeral fixations); and
 - delivering the ephemeral fixations to a state archive, if they are of exceptional documentary value.
- The organization shall be obligated to notify the author of such delivery without delay.

Art. 68

A holder who has been assigned to an economic right or other author's right may not, without the author's authorization, reassign that right to a third party, unless otherwise determined by Law or by contract.

If the reassignment of the right is result of a change of status or bankruptcy or regular liquidation, the consent of this Article, paragraph 1, shall not be required.

If the reassignment of the right is allowed without the author's authorization, by Law or contract, the previous and subsequent holder shall be jointly liable for the discharge of author's claims.

Art. 69

In a case when the author's remuneration has not been determined, it shall be determined according to the customary fees for a particular types of works, according to the extent and duration of use and other relevant circumstances.

If the use of a copyright work effectuates a profit which is significantly larger than the agreed or determined remuneration, the author may demand a revision of the contract to provide him more equitable share of the revenue. The author may not waive this right.

Art. 70

In a case when remuneration is agreed or determined in dependence of the revenue derived from the use of the work, the user of the copyright work shall be obligated to keep appropriate accounts or other documentation necessary for the determination of the amount of realized revenue.

The user of the work shall be obligated to enable the copyright holder to inspect the documentation from this Article, paragraph 1, and shall deliver him necessary reports on the realized revenue in an usual term, unless another term has been agreed.

Art. 71

The author may revoke the economic right, if the holder of the exclusive right exercises the right to an insufficient extent or does not exercise it at all, thereby significantly affecting the author's interests.

The author may not exercise the revocation of the economic right of this Article, paragraph 1, insofar the reasons for mentioned above are attributable to him.

The revocation of this Article, paragraph 1, may not be exercised before the expiration of two years from the time of assignment of the economic rights of the work, before three months in the case of daily newspapers article, or before one year in the case of periodical press article.

An author may exercise the revocation of this Article, insofar he has offered the holder an extra time period for an appropriate exercising of the right.

By exercising the revocation, the economic rights of the holder shall lapse.

The author shall be obligated to indemnify adequately the right holder, if required by the principle of justice.

The author may not waive the right of revocation provided by this Law.

Section 2 ***Special Provisions for Transfer of Copyright***

Subsection 1 *Publishing Contracts*

Art. 72

By a publishing contract the author shall be obligated to assign the publisher the right of publication of his work by printing in a book form, while the publisher shall be obligated to pay a remuneration to the author therefore and to publish the work.

The publishing contract of this Article, paragraph 1, does not include the right of publication of the work in an electronic form. A separate contract shall be concluded for publication of the work in an electronic form.

The publisher of this Article, paragraph 1, shall have a right of precedence among equal offerers for the publication of the work in electronic form. The right of precedence shall subsist for three years from the agreed term of publication of the work in a book form. The publisher shall give written notice within 30 days from the receipt of the author's offer.

By a publishing contract the right to a pocket edition may be also assigned, to a periodical edition in instalments, to a translation and alike.

Art. 73

The publishing contract shall include in particular: type of rights to be assigned, their scope and duration, territory of the rights' effectiveness, term for the publication of the work and author's remuneration.

In a case when the remuneration is agreed at a percentage of the retail price of the work's sold copies, the publishing contract shall specify their minimum number at the first printing. Such an obligation shall not be compulsory insofar the contract specifies the minimum remuneration that the publisher is obligated to pay, regardless of the number of sold copies.

In a case when the remuneration is agreed in a lump sum, the publishing contract shall specify the total edition. If it is not determined or cannot be specified from the purpose of the contract, or from other circumstances or customs, the publisher may publish the work in a maximum of 500 copies.

Art. 74

During the validity period of the publishing contract, the author may not assign the right of publication of the work in the same language to other persons, unless otherwise provided by contract.

The author may assign the right of publication of newspaper articles in the same language simultaneously to several users, unless otherwise provided by contract.

Art. 75

The publisher shall be obligated to enable the author improvement or alteration to the work on subsequent editions, provided this does not cause significant expense for the publisher and substantially alter the work, unless otherwise determined by a publishing contract.

Art. 76

In a case when a work is destroyed due to force majeure after delivery to the publisher, the author shall have the right of remuneration that would have been given to him if the work had been published.

In a case when an entire prepared edition is destroyed due to force majeure before it has been put into circulation, the publisher shall have the right to prepare a new edition, and the author shall have the right of remuneration for the destroyed edition only.

In a case when a part of a prepared edition is destroyed by a force majeure before it has been put into circulation, the publisher shall have the right to print, without payment of remuneration, only as many copies as were destroyed.

Art. 77

The publishing contract shall terminate:

- if the author dies before the completion of the copyright work;
- if all copies of all agreed editions are sold out;
- if the term of the contract has expired;
- in other cases determined by Law or by contract.

An author may rescind a publishing contract if the publisher, after the initial edition has been sold out, does not publish new agreed editions within three years from the date when the author requested it, unless otherwise provided by contract.

An edition shall be considered sold out within the meaning of this Law if the number of unsold copies is less than 5% of all agreed editions, and in any case if the number is less than 100 copies.

In a case when the publisher fails to publish the work within the agreed time period, the author may rescind the contract and request to be indemnified, and also to keep the received remuneration or to demand payment of the agreed remuneration.

In a case when a term for publication of the work has not been specified in the contract, the publisher shall be obligated to publish the work within the customary term, but not later than one year from the day of the delivery of the manuscript.

Art. 78

Where a publisher intends to sell unsold copies of the work for pulping after a period of three years from the agreed publication of the work, and the contract does not determine a longer time period, he shall be obligated to offer the copies to the author first for purchase at the price that he would obtain if they were sold for pulping.

Subsection 2

Public Performance Contract

Art. 79

By a public performance contract the author shall be obligated to assign to the user the right of public performance of his work, while the user shall be obligated to pay the author a remuneration and to perform the work in public.

Art. 80

The public performance contract shall include in particular: the type, scope and duration of the rights to be assigned, territory of the rights' effectiveness, the manner and time period for the public performance of the work and the author's remuneration.

Art. 81

The user shall be obligated to enable the author inspection in the public performance of the work, and to provide adequate technical conditions for the performance, unless otherwise provided by contract.

Art. 82

In a case when the user does not perform the work in public within the agreed time period, the author has the right to rescind the contract and request to be indemnified as well to keep the already received remuneration or to demand payment of the agreed remuneration.

Subsection 3

Commissioning Copyright Work Contract

Art. 83

By a commissioning copyright work contract, the author shall be obligated to create the commissioned copyright work and to deliver it to the person commissioning it, while the latter shall be obligated to pay a remuneration for it.

The person commissioning the work may supervise the process and give instructions, unless by doing so he infringes the author's right of creation's freedom.

The author shall keep the copyright of a commissioned work, except the right of distribution, unless otherwise provided by Law or by contract.

Art. 84

A collective copyright work (encyclopaedia, anthology, databases and alike) within the meaning of this Law, is a copyright work created on the initiative and under the organization of a legal entity or natural person commissioning it through collaboration with a large number of authors, which is disclosed and used under the name of the person commissioning it. A special contract shall be concluded for the creation of a collective copyright work.

It shall be considered that the economic and other rights of the authors of a collective work have been exclusively and without limitation assigned to the person commissioning the work, unless otherwise determined by contract.

Subsection 4

Copyright Work in the Course of Employment

Art. 85

In a case when a copyright work is created by an employee in the execution of his duties or on instructions by the employer (hereafter "copyright work in the course of employment"), it shall be

considered that the economic and other rights of the author of that work have been exclusively assigned to the employer for a period of ten years from the completion of the work, unless otherwise provided by a collective contract or employment contract.

On expiry of the term of this Article, paragraph 1, the economic rights and other rights shall revert to the employee, while the employer may demand their new exclusive assignment, insofar he pays the employee an equitable remuneration.

Art. 86

As an exception to the Article 85 of this Law:

- an employee shall retain the exclusive right to use a copyright work in the course of employment as part of his collected works;
- the economic and other rights of an author of a collective work or database, shall be considered to have been assigned exclusively and without limitation to the employer, unless otherwise determined by contract.

CHAPTER IV

SPECIAL PROVISIONS FOR COPYRIGHT WORKS

Section 1

Audiovisual Work

Art. 87

Audiovisual work, within the meaning of this Law, is a cinematographic, television and video film, another audiovisual work as well as another work expressed in a form of consecutive motion pictures, with or without sound, regardless of the nature of the medium which comprises them.

Art. 88

Within the meaning of this Law, as authors of an audiovisual work shall be considered: the writer of the screenplay, the principal director and the director of photography, and, in animated films, the principal animator. Where music is an essential element of the work, the composer of the music is also considered an author.

Co-authors of an audiovisual work, within the meaning of this law are: the principal director, the author of the screenplay, the author of the adaptation, the author of the dialogue, the director of photography, as well as the author of the music specially composed for utilization in the audiovisual work. Where animation of any kind is an essential element of the work, the principal animator is considered an author.

Art. 89

The animator **The animator** and the music composer when not considered as an author of an audiovisual work according to Article 88 of this Law, as well as set designer, costume designer, editors and make-up designer shall have copyright only on their individual contributions to an audiovisual work (hereafter "authors of contributions").

Art. 90

A film producer, within the meaning of this Law, is a legal entity which or a natural person who in his own name, at his own expense or at the expense of another manages or organizes the production of an audiovisual work and is responsible for its completion.

Art. 91

The right of an audiovisual adaptation is an exclusive right to modify the original work into an audiovisual work or to include it in an audiovisual work.

By concluding an audiovisual adaptation contract, the author of an original work shall be considered to have assigned, exclusively and without limitation, to the film producer: the right of modification and inclusion of the original work in an audiovisual work, his economic rights and other rights of that audiovisual work, the right of its translation, audiovisual adaptations as well as of the photographs made in connection with the audiovisual work, unless otherwise determined by contract.

As an exception to this Article, paragraph 2, the author of the original work shall retain:

- the exclusive right of further modification of the audiovisual work into another artistic form;
- the exclusive right of new audiovisual adaptations of the original work after the expiry of ten years from the contract conclusion of this Article, paragraph 2; and
- the right of appropriate remuneration from the film producer for every rental of videograms of the audiovisual work.

The author of the original work may not waive the rights mentioned in this Article, paragraph 3.

Art. 92

The relation between the film producer, the authors of an audiovisual work and the authors of contributions, as well as the relations between the authors themselves, shall be regulated by a film production contract, according to this Law.

By making a film production contract, the authors shall be considered to have assigned to the film producer, exclusively and without limitation, all their economic rights and other rights of the audiovisual work, rights of translation, audiovisual adaptation and photographs made in connection with the work, unless otherwise determined by contract.

By making a film production contract, the authors of contributions shall be considered to have assigned to the film producer, exclusively and without limitation, the rights to use their contributions for the completion of the audiovisual work.

As an exception of this Article, paragraphs 1, 2 and 3:

- the authors shall retain the exclusive right of further modifications of an audiovisual work into another artistic form;
- the authors of contributions shall retain the right to use their contributions to the audiovisual work separately, unless by doing so they infringe the rights of the film producer; and
- the authors shall retain the right of equitable remuneration from the film producer for every rental of videograms of the audiovisual work.

The authors and authors of contributions may not waive the rights specified in this Article, paragraph 4.

Art. 93

The authors of an audiovisual work shall have the right of author's remuneration separately for each assigned economic right or other rights of the author.

The film producer shall be obligated, at least once a year, to deliver the authors of an audiovisual work a report of revenue received separately for each form of authorized use of the work.

Art. 94

The audiovisual work shall be considered completed, when, according to the contract between the principal director and the film producer, the first standard copy of the work that is the subject matter of the contract is completed.

The destruction of a master copy from this Article, paragraph 1, shall not be permitted.

Alterations to the copy of the audiovisual work from this Article, paragraph 1, shall be allowable only after principal director and the film producer's approval.

In a case when one of the authors or authors of contributions does not complete his part to the audiovisual work or is unable to do so due to a force majeure, he may not object the part to be used for its completion. The author shall enjoy appropriate copyright on that part.

Art. 95

In a case when a film producer fails to complete an audiovisual work within five years from the making of the film production contract, or where he fails to distribute the completed audiovisual work within one year after its completion, the authors may rescind the contract, unless another term has been agreed.

In the case of this Article, paragraph 1, the authors and authors of contributions shall retain the right of remuneration.

Art. 96

The audiovisual adaptation contract and film production contract shall not be a subject to the provisions on the right of withdrawal from Article 17 or to the provisions on assignment of rights from Articles 65 to 68 of this Law.

Section 2

Computer Program

Art. 97

A computer program within the meaning of this Law is a program in any expressed electronic form, including the preparatory material for its creation, provided that it is an individual and intellectual creation of its author.

The ideas and conceptions which constitute a basis of any element of a computer program, including the program components that enable connection and interaction between the elements of the program and the machine equipment (interfaces), are not protected under this Law.

Art. 98

In a case when a computer programs created by an employee in the execution of his duties or on his employer's instructions, or where it is created by an author under a commissioning copyright contract, the economic rights and other author's rights to the program shall be considered assigned to the employer or the person commissioning the work, exclusively and without limitation, unless otherwise determined by contract.

Art. 99

If it has not been otherwise determined by Articles 100 and 101 of this Law, the author of a computer program shall have the exclusive economic right to use the program and the right to authorize or prohibit the use of the program in particular by:

- reproduction, partial or full, regardless of whether it is temporary or permanent and regardless of the means and form, which is necessary for the loading, display, running, transmission or storage of the computer program;
- translating or any other modification as well as reproduction of the results of that modification without affecting author's rights of the modification; and
- distributing the original or the copies of the computer program in any form, including the right of rental.

The author may also assign the rights from this Article, paragraph 1, to third parties by contract.

Art. 100

Unless otherwise determined by contract, a legal user of the computer program may carry out the operations specified in Article 99 subparagraphs 1 and 2 of this Law without authorization of the author, including correction of errors necessary for running the computer program, according to its intended purpose.

The legal user of a computer program may, without authorization from the author, make a maximum of two copies of the program, if that is necessary for its use.

The legal user of a copy of a computer program may, without authorization from the author, study or test the operation of the program in order to specify the ideas which are a basic characteristic of any element of the program, if he does so while performing any of the activities of loading, displaying, running, transmitting or storing the program that he is entitled to perform.

The provisions concerning the right of withdrawal and private and other individual reproduction from Article 34 of this Law, shall not apply to computer programs.

Contractual provisions contrary to the paragraphs 2, 3 and 4 of this Article shall be null and void.

Art. 101

Reproduction of the code and alteration of its form, within the meaning of Article 99, paragraph 1, items 1 and 2 of this Law, shall not require authorization from the author, insofar it is indispensable to obtain informations necessary to achieve interoperability between an independently created program and other programs, provided the following conditions are met:

- such activities to be carried out by the licensee or another legal user, or on their behalf, for that purpose, by a person authorized to do so;
- the information necessary to achieve interoperability have not been previously available to the persons from this Article, paragraph 1, item 1; and
- such activities to be confined only to those parts of the original program that are necessary to achieve interoperability.

Information obtained through the application of paragraph 1 of this Article may not be:

- used for purposes other than the achievement of the interoperability of the independently created computer program;
- conveyed to a third party, except when necessary for the interoperability of the independently created computer program; and
- used for the development, production or trade of another computer program substantially similar in its expression, or for any other activity that infringes copyright.

The provisions of this Article may not be applied in a manner that might unreasonably infringe the copyright or conflict with the customary use of the computer program.

Contractual provisions contrary to this Article shall be null and void.

Art. 102

Distribution of a computer program copy or the possession of a copy of a computer program for commercial purposes shall be permissible only in the case of an authorized copy.

Art. 103

The provisions of Articles 97 to 102 of this Law shall be applied regardless of the other legal regulations on computer program (such as regulations on the industrial property rights, protection against unfair competition, business secret and alike).

CHAPTER V

RELATED RIGHTS

Section 1

General Provisions

Art. 104

Related rights, within the meaning of this Law, shall be the rights of the artists-performers in their performances and the rights of phonogram, film and scenic producers, of broadcasters, and publishers **and the makers of databases** (hereafter producers) in their phonograms, videograms, stage works, broadcasts, or editions **or databases** (hereafter objects of related rights) determined by this Law.

Art. 105

The provisions of this Law on parts of a copyright work, on the contents and definitions of the economic rights, on the relations between copyright and property right, on limitations of the economic rights, on calculation of the copyright duration and on transfer of the copyright shall appropriately apply to the related rights.

Art. 106

The implementation and protection of related rights according to this Law shall not affect the implementation and protection of copyright.

Section 2

Contents of Related Rights

Subsection 1

Rights of Performers

Art. 107

Artists-performers (hereafter performers), within the meaning of this Law, shall be: actors, puppet actors, singers, musicians, dancers and other persons who by acting, singing, dancing, declaim, reciting or in some other way perform author's works or works of folklore.

Within the meaning of this law directors of theatrical performances, orchestra-conductors, choir directors, sound editors and variety and circus artists shall be considered performers.

Art. 108

Performers in ensembles or groups such as: members of an orchestra, a choir, dancing or theatrical ensemble or other type of group shall be obligated to authorize one of the members as their representative for issuing licences necessary for performance.

The authorization from this Article, paragraph 1, shall be given in written form and shall be effective if it is granted by the majority of the performers in the ensemble or group from this Article, paragraph 1.

The provisions of this Article, paragraphs 1 and 2, shall not apply to directors of theatrical performances, conductors and soloists.

Art. 109

Performers shall have an exclusive moral right to have their name, pseudonym or other designation denoted in a customary manner on the announcement of the performance and on every fixation and packaging of fixation of that performance as follows:

- in a solo performance, the name of the performer; and
- in a performance by an ensemble or group, the name of the ensemble or group, of the artistic director and soloist.

Art. 110

Performers shall have an exclusive moral right to object to any distortion, mutilation or alteration of their performance or any use of their performance that could be prejudicial to their personality, honour or reputation.

Art. 111

Performers shall have exclusive economic rights to use or to authorize or prohibit appropriate use of their performance in particular for:

- broadcasting of the performance, except where the performance is a broadcast by itself, or it is a broadcast from a fixation;
- live transmission through a loudspeaker, screen or a similar device, out of the space or place of performance;
- fixation of the live performance;
- reproduction of the performance fixation on phonograms and videograms;
- reproduction of a performance fixed on phonograms and videograms in any manner or form;
- **making available to the public recordings and their performances**
- distribution of phonograms or videograms containing the performance;
- rental of phonograms or videograms containing the performance.

In a case where the performance is realized by a scenic producer, the rights of the performers shall be obtained by the scenic producer according to this Law, unless otherwise determined by contract.

Art. 112

The performer shall have the right of a share in the remuneration received by the phonogram producer for the disclosure of a phonogram containing his performance.

Art. 113

By making a phonogram or videogram production contract, it shall be considered that the performer has assigned the phonogram or the film producer the right of fixation, reproduction, distribution and rental of his performance, unless otherwise determined by contract.

Regardless the contract of this Article, paragraph 1, the performer shall have the right of appropriate remuneration from the phonogram producer and the film producer for every rental.

The performer may not waive the right specified in this Article, paragraph 2.

Art. 114

In a case when some of the performers shall not complete his contribution to the audiovisual work or is unable to do so due to a force majeure, he may not object to the use of the part of his contribution for the completion of the work. The performer shall enjoy appropriate rights to such part specified in this Law.

Art. 115

In a case when a performance is realized by an employee in the execution of his duties or on instructions by an employer (performance in the course of employment), the relations referred to the performance shall be regulated by an appropriate collective agreement or an employment contract.

Art. 116

The rights of the performer shall subsist for 50 years from the day of the performance. If the performance fixation is legally disclosed during that period, the rights of the performer shall subsist for 50 years from its first disclosure. **If in that period the fixation of the performing is for the first time legally published or communicated to the public, the rights of the performer subsist for 50 years counted from the first publication or communication to the public.**

Subsection 2

Rights of Phonogram Producers

Art. 117

A phonogram producer, within the meaning of this Law, is a natural person who or a legal entity which undertakes an initiative and responsibility of the first fixation of the sounds of a performance or other sounds.

The fixation represents integration of sounds of some performance or other sounds on a medium where they can be received, reproduced or communicated by technical means. The phonogram represents a fixation of sounds of some performance or other sounds different than the fixations incorporated in audiovisual works

Art. 118

The phonogram producer shall have exclusive economic rights to use or to authorize or prohibit the use of his phonograms for: reproduction, modification, distribution, and rental **and making available to the public.**

Art. 119

In a case when a phonogram published for commercial purposes or its reproduction is used directly for broadcasting or any other type of disclosure, the user shall be obligated to pay the phonogram producer an appropriate single remuneration for each use.

The phonogram producer shall be obligated to pay half the remuneration of this Article, paragraph 1, to the performer of the phonogram unless otherwise determined by contract.

Art. 120

The rights of a phonogram producer shall subsist for 50 years from the day of fixation. If the phonogram has been legally disclosed during this period, the rights of the producer shall subsist for 50 years from its first disclosure. **If during that period the phonogram had been legally published for the first time , the rights of the producer subsist for 50 years counting from the first fixation. If during that period the phonogram has not been legally published, but has been communicated to the public, the rights of the producer subsist for 50 years counting from the first communication to the public.**

Subsection 3
Rights of Film Producers

Art. 121

The film producer from Article 90 of this Law, shall have exclusive economic rights to use or to authorize or prohibit publication of videograms of his audiovisual work.

Art. 122

A film producer shall have an exclusive right of reproduction, distribution, rental, and public transmission, making available to the public, public presentation, **broadcasting and rebroadcasting** of his videograms.

Art. 123

The rights of the film producer shall subsist for 50 years from the day of completion of the fixation. If the videogram has been legally disclosed during that period, the rights of the film producer shall subsist for 50 years from the first disclosure. **If during that period the videogram has been legally published or communicated to the public, the rights of the film producer subsist for 50 years counting from the first publication or communication to the public**

Subsection 4
Rights of Scenic Producers

Art. 124

A scenic producer, within the meaning of this Law, is a natural person who or a legal entity which in his own name organizes the preparation and performance of a stage work.

Art. 125

The scenic producer, unless otherwise determined by contract, shall have exclusive economic rights to use or to authorize or prohibit the use of the stage work for:

- broadcasting of the stage work;
- transmission of the stage work through a loudspeaker, screen or similar device out of space or place of performance;
- fixation of a live performance of the stage work;
- modification of a phonogram or videogram fixation;
- reproduction of the fixation of the stage work on a phonograms or videograms;
- distribution of phonograms and videograms of the stage work; and
- rental of phonograms and videograms containing the stage work.
- **making available to the public the fixations of stage works**

Art. 126

The scenic producer shall have the right of a share in the remuneration received by the phonogram producer for the disclosure of the phonogram containing the stage work.

Art. 127

By making a phonogram or videogram production contract, it shall be considered that the scenic producer has assigned to the phonogram producer or the film producer the right of fixation, reproduction, distribution and rental of his work, unless otherwise determined by contract.

Regardless to the contract from this Article, paragraph 1, the scenic producer shall have the right to an appropriate remuneration from the phonogram producer or the film producer for every rental.

The scenic producer may not waive the right specified in this Article, paragraph 2.

Art. 128

The rights of the scenic producer shall subsist for 20 years from the day of the first public performance of the stage work.

Subsection 5

Rights of Broadcasting Organizations

Art. 129

A broadcasting organization shall have exclusive economic rights to use or to authorize or prohibit the use of its broadcasts for:

- rebroadcasting, including secondary broadcasting and broadcasting through satellite;
- disclosure at public places against payment of admission charge;
- cable distribution (simultaneous or secondary);
- transmission on individual demand to individual subscribers and public access to broadcasts' fixations entered into on-line computer databases;
- fixation;
- reproduction of the fixations;
- distribution of the fixations;
- photography, reproduction and distribution of the fixations' photographs;
- **making available to the public the fixations of their broadcasting programs**
- distribution of a program signals transmitted through communication satellites to other broadcasters, cable and other distributors; and
- import and distribution of broadcast fixation or their reproduction in a state where protection of the rights of broadcasting organizations is not provided.

Art. 130

The rights of broadcasting organizations shall subsist for 50 years from the day of the first broadcast.

Subsection 6

Rights of Publishers

Art. 131

A natural person who or legal entity which legally publishes a copyright work in a book form (hereafter publisher) shall have exclusive rights on his edition according to this Law.

The publisher shall have an exclusive right to authorize or prohibit his editions to be reproduced by another natural person or legal entity, under the name of the person, by photography, copying or

other forms of duplication. In a case when the publisher gives an authorization for reproduction, on the reproduced edition shall be denoted the name or the pseudonym or designation of the publisher of the used publication. This right shall not affect the implementation of the author's rights.

Art. 132

A publisher who shall for the first time legally publish a previously unpublished work in which the copyright has expired shall enjoy protection equal to the economic rights and other author's rights specified in this Law.

Art. 133

A publisher who shall publish a previously published critical or a scientific work in which the copyright has expired, shall enjoy protection equal to the economic rights and other rights determined by this Law.

Art. 134

The rights of Article 131, paragraph 2, Articles 132 and 133 of this Law shall subsist for 25 years from the legal publication of the work.

Subsection 7

RIGHTS OF MAKERS OF DATABASES SUI GENERIS

Art 134-a

Databases sui generis are databases that are not copyright works within the meaning of article 7 item 2 of this law, but which constitute qualitative and quantitative significant investments in the acquisition, verification or the presentation of the contents.

The protection of the databases sui generis or their contents is applied independently from their protection according to the copyright determined in this law or according to other legal rights determined in the other legal regulations.

Art 134-b

The protection of the databases sui generis is applied to:

- **the entire content of the databases**
- **the essential parts of its content, estimated qualitatively and/or quantitatively**
- **the non-essential parts of its content, in case of repeated and systematic use, including acts that are in conflict with the normal use of these databases or which unreasonably violates the legitimate interests of the producer of the database.**

The protection of the databases sui generis is not applied to computer programs used for the preparation or operation of the databases available through electronic means.

Art 134-c

The producer of the databases sui generis has exclusive rights to his databases to allow or prohibit extraction and further use.

"Extraction" within the meaning of this law means reproduction, i.e. permanent or temporary transfer of the entire content or an essential part of the content of the databases on another material medium in any manner or form.

"Further use" within the meaning of this law represents any for of making available to the public of the entire content or an essential part of the content of the databases through distribution of copies, rental, making available to the public or other forms of communicating to the public.

Art 134-d

The producer of a disclosed database sui generis may not prevent the legal user from using the non-essential parts of its contents for any purposes. When the legal user is authorized to use only a part of the databases, this item applies only to that part.

The legal user of a disclosed database sui generis may not undertake any actions that are in conflict with the normal utilization or unreasonably violates the legitimate interests of its producer.

The legal user of a disclosed database sui generis may not cause violation of the holder of the copyright or related rights regarding the works or subjects of the related rights that are contained in the database.

All provisions from a contract that are to the contrary to this article are void

Art 134-e

When a database sui generis is made by a worker during the performance of his duties or following instructions from the employer or when it has been made by an entity according to a order contract, it is deemed that the exclusive rights to that database are transferred to the employer or the client, exclusively and without limitations, except if it has not been otherwise specified in the contract.

Art 134-f

The rights of the producer of a database sui generis subsist for 15 years after the completion of the production. If during that period it is legally disclosed, the rights shall subsist for 15 years after the first such disclosure

Any significant modification of the contents of the databases sui generis, estimated qualitatively or quantitatively, including the significant modifications caused by the accumulation of the subsequent updates, erasures or changes, which would result in that that this data base is deemed a significant new investment, estimated qualitatively or quantitatively, will be considered as a database sui generis which comes from those investments and has its own protection time frame.

CHAPTER VI

ADMINISTRATION OF RIGHTS

Section 1

General Provisions

Art. 135

The author may administer his moral, economic and other rights either personally or through an agent.

The provisions of this Chapter which refer to the administration of copyright, that is to the author, appropriately shall apply to the related rights, that is to the holder of the related right.

Art. 136

Copyright shall be administered separately for each copyright work (hereafter individual administration) or, if determined by this Law, jointly for a number of copyright works by several authors (hereafter collective administration).

Art. 137

The administration of copyright through an agent shall include representation of the author in:

- legal matters and relations with the rights holders, that is the users of his work, including the collection of author's remuneration; and

- legal proceedings before courts or other bodies, for protection of his copyright.

Section 2
Collective Administration

Art. 138

The collective administration of a copyright shall be carried out only for already disclosed copyright work.

The collective administration of copyright shall consist of:

- assignment of non-exclusive rights for the use of copyright work;
- collection and distribution of authors' remuneration of the use of the copyright work; and
- accomplishment of the protection of the right before courts and other bodies.

Art. 139

The following rights shall be collectively administered:

- disclosure of non-scenic musical and non-scenic literary works (small rights);
- resale rights;
- cable rebroadcast of copyright work, except broadcasters' own transmission, regardless of whether the rights concerned are their own or have been assigned to them by other rights holders.

Alternative

If the disclosing of a non-stage music and non-stage literary work (small rights) is publicly performed by the author of the work who is also the publisher of the work, as an exception from item 1 point 1 of this article, the accomplishment of the rights from that performance can be accomplished by the author - publisher personally

Art. 140

The following rights may also be collectively administered:

- reproduction of musical and literary works on phonograms and videograms (mechanical rights);
- rental of phonograms and videograms;
- disclosure or reproduction of parts of copyright works, and works of photography, fine and applied art, architecture, design and cartography, for teaching purposes;
- disclosure of articles on current topics in daily and periodical press about general questions, unless explicitly prohibited by the author;
- reproduction, public presentation or other disclosure of works in commercials that last for no more than 60 seconds; and
- reproduction of copyright works exhibited in public places for commercial purposes.

Other forms of use of the copyright works may be also collectively administered if it is in the authors' interest.

Art. 141

Collective administration shall be carried out by associations of authors established for that purpose (hereafter collecting society).

The collecting society of this Article, paragraph 1, shall be a non-profit association and may carry out collective administration only.

Collecting society shall be managed by their members according to the statute of the society.

Art. 142

The statute of a collecting society shall contain the following provisions in particular:

- a name of the society, which may not be identical to a name of another society;
- types of rights that shall be administered;
- conditions for acquisition and loss of membership;
- categories of rights holders (authors of original work by types and genres, authors of modification, authors of translation and alike, legal heirs, publishers, employers) and categories of membership (regular, irregular, temporary, honorary and alike) on which the management of the collecting society depends;
- membership fees, according to the categories of rights and the type of membership;
- rights, duties and responsibilities of the members;
- bodies of the society, their competence, election and dismissal;
- procedural matters;
- fundamental principles of remuneration' distribution among the authors or rights holders;
- supervision of the financial and economic administration; and
- the manner of disposal of the assets of the society in the event of its cessation.

Art. 143

The collecting society shall be registered in a competent body, and shall commence work upon a licence issued by the Ministry of Culture.

The Ministry of Culture shall issue the licence of this Article, paragraph 1, if the collecting society fulfils the following conditions:

- to have a headquarter in the Republic of Macedonia;
- to be open to all of the authors;
- the statute to be in accordance with this Law; and
- to provide efficacious and economical administration of rights in the whole territory of the Republic.

In establishing the conditions of efficacious administration of rights of this Article, paragraph 2, item 4, the Ministry of Culture shall consider in particular: the number of authors who have entered into a membership contract with the collecting society, the scope of the use of authors' works or the number of possible users, the manner and means which the collecting society intends to achieve its aims with, the manner and participation of the members in the bodies and decision making, the principles for distribution of remuneration among the authors, as well as the possibilities of administration of rights abroad.

Art. 144

The Ministry of Culture shall issue a license to the collecting society on the basis of a public competition published in the Official Gazette of the Republic of Macedonia.

For the purpose of the collective administration of rights from Articles 139 and 140 of this Law for the same type of copyright works a license shall be issued generally, to one collecting society only.

The Ministry of Culture shall issue a license in the form of a decision against which appeal is allowed. The Government of the Republic of Macedonia shall decide on the appeal.

The final decision of this Article, paragraph 3, shall be published in the Official Gazette of the Republic of Macedonia.

Alternative

The license from item 1 of this article is issued for a time period of 5 (10) years

Art. 145

The Ministry of Culture shall revoke the issued licence, if the collecting society fails to exercise the

obligations specified in the statute and in this Law. In such a case, the Ministry of Culture shall first give the collecting society a written warning and shall set a time limit of at least 30 days for the collecting society to eliminate the irregularities.

It is considered that the society does not exercise the obligations determined by this law, if it does not exercise the rights and obligations determined by the articles 138, 143, 146, 147, 149, 150, 151, 154 and 155.

The Ministry of Culture shall revoke the license in the form of a decision, against which an appeal to the government of the Republic of Macedonia is permitted. The revocation shall become valid 30 days after the day of publishing the final decision in the Official Gazette of the Republic of Macedonia.

Art. 146

The collecting society shall adopt general regulations and tariffs for the use of copyright works.

By agreements between the collecting society and the users may be specified other special tariffs.

The collecting society shall submit its tariffs to the Ministry of Culture for approval. Approved tariffs shall be published in the Official Gazette of the Republic of Macedonia.

Art. 147

The collecting society shall adopt regulations for the distribution of the author's remuneration, in accordance with the statute and this Law.

By distribution the principle of promotion and support of creation shall be implemented.

No more than 30% of the author's collected remuneration may be used to cover the costs of the collecting society.

The collecting society shall submit the regulations of this Article, paragraph 1, to the Ministry of Culture for approval. The approved regulations shall be published in the Official Gazette of the Republic of Macedonia.

Alternative:

Art. 147-a

When an initiative for modification of the acts from article 146 and 147 is submitted by at least 50 authors, i.e. 1/10 of the members of the society, it is obligated to put forth the initiative for consideration in before its highest authority.

Art. 148

The collecting society shall administer the copyright on the basis of a contract with the author.

The contract of this Article, paragraph 1, shall include in particular: authorization for the administration of rights, the type of work, the right that is to be administered, the duration of the contract and the special rights in the case of defaulting in contract.

For as long as the administration of the copyright has been assigned to a collecting society, either by Law or by contract, the author may not administer those rights individually.

The rights from Article 139 of this Law the authorized collecting society shall administer by force of Law regardless whether a contract with the author has been made.

Art. 149

The collecting society shall conduct proceedings for administering of the copyright before courts and other bodies in its own name but at the author's expense and shall be obligated to inform the

author about.

Art. 150

If the author requests the collecting society to administer a copyright, the collecting society may not refuse to do so according to this Law and the statute of the collecting society.

Alternative:

Art. 151

The collecting society shall be obligated, any time on the request of the author, to provide him information about the administration of his right.

The collecting society shall be obligated, at the request of a user, to enter into a contract for the assignment of non-exclusive rights that it is authorized to administer, according to its regulations.

Upon a request from at least 50% of the members of a society of users or association of societies of users, for a specific form of utilization of the works or from a specific field, the association is obligated to conclude contracts for determining of other special tariffs for utilization of the copyright works.

The society submits the special tariffs to the Ministry of Culture in order to obtain agreement.

The tariffs for which an agreement has been obtained are published in "Official Gazette of RM"

If the parties from item 3 of this article do not reach an agreement on the level of the remuneration, they shall notify the Ministry of Culture and shall submit the relevant documentation from the negotiations. The Ministry of Culture gives its opinion and determines an additional deadline of 60 days to reach an agreement.

If the parties still do not reach an agreement, the Ministry of Culture, by a decision, determines the level of the remuneration of the special tariff

Against this decision an appeal can be filed. The decision is considered to be a given agreement within the meaning of article 146 from the Law and is published in "Official Gazette of RM".

If the parties of this Article, paragraph 2, fail to reach agreement on the amount of remuneration, the appropriate right shall be considered assigned insofar the person requesting it has paid on a collecting society's account or to the court an amount as calculated by the collecting society according to its tariff.

Alternative:

Article 151-a

For certain forms of utilization of the works from a temporary non-commercial basis, i.e. for utilization of the rights from article 139 of this law, which are broadcasted on specialized radio or television programs with a smaller commercial effect, temporary or permanent, the society reduces the corresponding tariff by 50%.

The society submits the privileged tariff to the Ministry of Culture in order to obtain agreement.

The tariffs for which an agreement has been obtained are published in "Official Gazette of RM"

If the conditions on the market contribute for the non-commercial uses from paragraph 1 of this article to be transformed in exercise of an increased commercial effect,, upon a request from the society, with elaborated evidence regarding the modified and increased degree of commerciality of the appropriate users, the Ministry of Culture, by a decision, revokes the

privileged tariff and an appropriate tariff rate of the existing Tariff of the society is applied or the provisions from article 151 of this law apply. An appeal can be filed against the decision. The final decision is published in "Official Gazette of RM"

Art. 152

The transfer of the rights from article 139 and 140 to the users who use the works within the framework of their main activity is general.

The organizer of cultural, artistic and entertainment performances as well as other users of copyright works shall be obligated first to acquire, from the relevant collecting society, an authorization for public performance or disclosure of the copyright works, in cases specified in this Law, and to submit to the collecting society a list of all works performed or disclosed and also pay an amount according to the tariffs of the collecting society, within the period of 15 days after the performance or disclosure.

The organizer of cultural, artistic and entertainment performances, as well as other users of copyright works shall be obligated, within at least three days before the public performance or use of the copyright work to notify in writing the relevant society, and within 15 days after the performance or disclosure, to submit to the society and overview of all performed or disclosed works and to pay an amount in accordance with the tariff of the society

On request of the author or the collecting society, the internal affairs body shall prohibit the performance or disclosure of the copyright work insofar the organizer has not received an authorization according to this Article, paragraph 1.

The broadcasters shall be obligated to submit to the competent collecting society, once a month, a list of the broadcasted copyright works.

The owner of the original works of fine art or manuscripts of literary or musical works, or the organizer or agent of sale of such works shall be obligated to submit information regarding the sold works, the vendor and the retail price to the competent collecting society within 30 days of the sale.

The seller or the gallery person, the organizer of a public sale, art gallery or another agent that performs sales of the original art works within the meaning of this law and of originals (manuscripts) of literary and music works, is obligated to submit to the competent society data about the sold works, the seller and the retail price within 30 days from the sale

Art. 153

When the exercising of a certain activity is connected with the acquisition of rights from Article 139 of this Law, the competent body shall not issue a license for exercising such activity insofar the person performing it has not previously concluded an contract with the competent collecting society.

Art. 154

Any member of the collecting society may demand, within the time limit determined by the statute, an inspection in the annual financial report and the report of the supervisory board of the collecting society.

The majority of members At least 5% of the total number of members (*alternative 50 members*) of a collecting society may demand that one or more independent experts inspect the operation of the society.

Art. 155

The exercise of the collective administration of copyright and related rights shall be supervised according to this and other Laws.

The collecting society shall be obligated to notify the Ministry of Culture of agreements entered into with associations of users and with foreign associations of identical activities, as well as of a change in the statute.

If the Ministry of Culture does not reply within two months from the submission of the acts determined by this Law, which Ministry's approval is necessary, it shall be considered that the approval has been given.

CHAPTER VII

PROTECTION OF RIGHTS

Section 1

General Provisions

Art. 156

A person whose rights under this Law have been infringed may demand protection of his rights and claim indemnity, unless otherwise determined by this Law.

The right holder may also demand protection of this Article, paragraph 1, when there is a serious threat of infringement of the rights according to this Law.

Art. 157

When there are several right holders from this Law, each of them may demand protection of the right in its entirety.

When there are several infringers of a right as per this Law, each of them shall be liable for the infringement, in its entirety.

Art. 158

A person shall be considered to be infringing the exclusive rights according to this Law, when he manufactures, imports, possesses for commercial purposes, distributes, rents or in other way uses any devices:

- whose sole or main purpose is, unauthorized removal or damage of technical equipment or computer program that is used as legal protection against unauthorized use; and
- that makes possible or assists, without authorization, the public to receive encoded broadcasters program-carrying signals.

A person shall be considered to be infringing the exclusive rights according to this law, when this person manufactures, imports for distribution purposes, distributes, sells, rents, advertises sale or rental or possession for commercial purposes, technology, means, components or computer programs or illegally provides services, which

- **promote, advertise or sell;**
- **or have only limited commercially significant value for use; or**
- **are primarily intended, produced, adapted or realized**

in order to outsmart the effective technological measures, intended to protect the rights from this Law.

The technologic measures from paragraph 1 of this law, include any form of technology, means, components or computer program, which in the duration of their normal operation, are intended to prevent or limit infringement of the rights according to this Law. These

measures are deemed effective when the access to or use of copyright works or the subject matter of related rights are controlled by the holder of the right through application of a process of control or protection whereby the goals of protection are achieved in a functional or confidential manner, such as coding, distortion or other modification of the copyright or the subject matter of the related rights or of the control mechanisms for copying.

This article, also, respectively applies to all technologies, means or components or computer programs for removing or modification of electronic right - management information .

Article 158-a

A person shall be considered to be infringing the exclusive rights according to this law, when this person undertakes any of the actions that cause, enable, facilitate or hide infringement of the rights from this Law regarding:

- removal or modification of any electronic right - management information
- reproduction, distribution, import for distribution, rental or communication to the public of a copyright work or a subject matter to the related rights whose electronic right - management information have been illegally removed or modified.

The right - management information . means any information provided by the holder of the right for identification of the object of the rights, the author, holder of the right, the time and conditions for use, as well as their corresponding figures and codes, when accompanied by the copy of the copyright work or the subject matter of the related rights or appear in connection with their communication to the public.

Section 2

Judicial Protection

Art. 159

When the rights from this Law have been infringed, the right holder may demand:

- to have the infringer prohibited in preparations for infringement, the infringement itself and future infringements;
- to have the infringer eliminate the situation caused by the infringement;
- to have unlawful copies and their packaging or the performance or other objects of protection according to this Law destroyed or altered;
- to have the master copies, negatives, plates, moulds or other devices that have been instrumental in the infringement destroyed or altered;
- to have the equipment whose sole or main purpose has been the infringement of rights according to this Law, which is owned by the infringer, destroyed or altered; and
- to have the judgement published in the public media at the expense of the infringer, to such extent and in such manner as the court may determine.

The provisions of this Article, paragraph 1, items 2 and 3, shall not apply to architectural structures, unless the destruction or alteration of the structure is justified by the circumstances of the case.

Instead of demands, the holder of right may demand that the infringer or owner convey to him the copies or the devices as of this Article, paragraph 1, items 3 and 4.

Art. 160

If an economic or other right or a related right according to this Law has been infringed either intentionally or through gross negligence, the right holder may demand in civil proceedings payment of an agreed or the customary remuneration for such use, increased by 200%, regardless of whether he has suffered actual pecuniary damage as a result of the infringement (civil penalty).

When deciding on the claim for payment of punitive damages of this Article, paragraph 1, and determining the amount thereof, the court shall take into account all the circumstances of the case,

and in particular the degree of culpability of the infringer, the amount of agreed or customary remuneration, as well as the preventive purpose of the penalty.

If the pecuniary damage exceeds the amount of penalty, the holder of right shall be entitled to claim the difference up to the full amount of the full indemnity.

Art. 161

In a case of infringement of moral right and in absence of pecuniary damage, the court may award an author or performer equitable monetary indemnity for the infringement of his personality, honour and reputation, or non-pecuniary damage, if it finds that the circumstances of the case, and especially the degree of damage and its duration, justify this.

Art. 162

If the rights holder reports that his exclusive right under this Law has been infringed, the court may, on the holder's proposal, determine provisional measures to secure claims according to this Law, and in particular:

- to seize, remove from circulation and to reserve copies, devices, equipment and relevant documents;
- to prohibit activities of eventual infringement or their continuance;
- to adopt other similar measures.

If there is a well found suspicion that protection of this Article, paragraph 1, may not be realized later, the court may pronounce and execute such measures without prior notification and hearing of the adverse party.

The procedure for provisional measures shall be summary.

The regulations for executive procedure shall be applied in the procedure for adoption of provisional measures, unless otherwise determined by this Law.

Art. 163

If the right holder reports that his exclusive right under this Law has been infringed and that there is a well found suspicion of destroying the infringement's evidence or an impossibility to secure such evidence later, the court may, on the holder's proposal, secure such evidence without prior notification and a hearing of the adverse party.

The securing of evidence of this Article, paragraph 1, may include search or inspection of premises, documentation, inventories, databases, computer programs and other sources, the examination and seizure of documents, the hearing of witnesses, findings and statements by experts.

The decision which proposal for securing evidence has been accepted with, together with the proposal, shall be delivered on the adverse party at the time of the actual securing of evidence or, if it is not possible, when it becomes possible. A plea against a decision shall not suspend the decision.

The procedure for securing of evidence shall be summary.

The regulations for civil trial procedure shall be applied in the procedure for securing evidence, unless otherwise determined by this Law.

Section 3

Measures for the Enforcement of Protection

Art. 164

The right holder may demand from persons who are in any way connected with an infringement of rights recognized by this Law (manufacturer, printer, importer, consignee or owner, or holder of copies, objects of related rights or means which the right was infringed with) to deliver information and documents in connection with the infringement immediately.

The obligation of this Article, paragraph 1, shall not apply in cases where conditions exist that allow withdrawal of statement or answer to particular questions in the civil trial procedure.

If the persons of this Article, paragraph 1, fail to deliver information or documents in their possession, they shall be liable for any recompense for damage caused by failure of delivery.

Art. 165

If the right holder reports that his exclusive right according to this Law has been infringed by the importation of certain goods in the state, the customs authorities may, on his demand determine the following customs measures:

- the right holder or his agent to inspect the goods; and
- the goods to be seized, removed from circulation, or stored in a secure place.

Together with the demand of this Article, paragraph 1, the right holder shall be obligated to deliver to the customs authorities a detailed description of the goods, necessary evidence of his exclusive rights and their presumable infringement. On the customs authorities' order, the right holder shall be obligated to provide a security against damage that may be caused by such measures.

The customs authorities shall be obligated promptly to notify the importer and the recipient of the goods of the measures adopted. The customs authorities shall rescind the measures adopted insofar the holder of right does not file a suit or initiate some other proceedings for executing the measures adopted within ten days.

Art. 165

If the holder of copyright and related rights reports in writing that by import, re-export or export of certain goods, which are pirated goods, in and from the state, his exclusive right according to this law is being infringed, the customs authorities can specify a measure - temporary confiscation of the goods, its exclusion from further transactions and storage in a safe place.

Pirated goods, within the meaning of this law, understand goods that are a copy or contain a copy of a copyright work and subject matter of related rights, made without the consent of the holders of the aforementioned rights and by their manufacture, the rights from this law have been infringed. Pirated goods also understand any mold or matrix, which, by their use, are specially intended or adapted to infringe the copyright and related rights.

With the request for application of the measure from paragraph 1 of this article, the holder of the right is obligated to submit to the customs authorities a detailed description of the goods, necessary evidence regarding his exclusive rights, their probable infringement, as well as, whenever possible, any other data that could possibly facilitate the procedure. Other data include the data regarding: the place where the goods are located and the planned destination of the shipment, detailed identification of the shipment or the packets, the specified time of arrival or departure of the goods, the means of transportation used, as well as the name, address of the importer, exporter or the holder of rights. The request must specify the time frame in which the customs authorities must undertake the measure.

After the reception of the request for undertaking the measure of paragraph 1 of this article, the customs authorities, notify, in writing, immediately the holder of the right regarding their decision.

For each rejected request from paragraph 1 of this article, the customs authority is obligated to list the reasons and that can be a subject of an appeal.

When the measure from item 1 of this article is being undertaken, the customs authority requires the requestor of the measure to lay down collateral as a guarantee in financial means or property, in the amount sufficient to cover the expenses of the conduction of the procedure, as well as to cover all possible damages that could occur due to the measures, if an appropriate future procedure has not been initiated or in an appropriate court procedure, the request of the holder of the right is not legally recognized. The level of the guarantee is determined in accordance with the corresponding customs regulations for administrative expenses and the total level of the billed price of the goods increased by 200%.

Regarding the passed measure from paragraph 1, the customs authority is obligated, in addition to the requestor, in writing to inform all the other concerned parties (importer, exporter, receiver and sender of the goods). Without infringing the regulations for protection of secrets (personal, trade, management etc), the customs authority is obligated to notify the requestor about the name and address of the declaring person and, if known, the name and address of the receiver of the goods, for the purposes of future conduction of the procedure after the stated measure. The customs authority will give the opportunity to the aforementioned parties to examine the goods related to the measure from paragraph 1 of this article.

If, within 10 working days from the notification regarding the undertake measure, the holder of the right does not submit proof that he has initiated an appropriate procedure before a competent court or does not initiate another procedure for execution of the passed measures, the customs authority will nullify the measure from paragraph 1 of this article.

The customs authority conducts the appropriate acts of the competent courts in connection with the measure from paragraph 1 of this article.

If, by a final court decision, the measure from paragraph 1 of this article is nullified, the customs authority, in writing, shall notify the concerned parties and if necessary determines a deadline of another 10 working days to complete the customs procedure for import, re-export or export. The real level of damages incurred by the measure from paragraph 1 of this article is determined before a competent court. If within 10 working days, the customs authority does not receive a proof about initiation of a procedure for reimbursement of damages, it nullifies the act for provision of guarantees in financial means or property

Art 165-a

The customs authority, acting upon its own initiative or based on data from customs authorities of another state or based on a request from another state authority, society for collective exercise of the copyright and related rights or from another holder of the aforementioned rights can undertake the measure from article 165 paragraph 1 of this law.

During the undertaking of the aforementioned measure, the customs authority is obligated to inform the entities from article 165. The customs authority determines a deadline of three working days for the holder of the right to submit additional information to support the evidence.

Against the measure from paragraph 1 of this article, an appeal is allowed. The appeal does not postpone the execution of the measure.

If within 10 working days from the notification regarding the undertake measure, the holder of the rights from this law does not submit evidence that an appropriate procedure has been initiated before a competent court or another procedure has been initiated for execution of the measures, the customs authority will nullify the measure from paragraph 1 of this article.

With the nullification of the aforementioned measure, the customs authority, in writing, shall notify the concerned parties and, if necessary, determines for them an additional 10 working days to complete the customs procedure for import, temporary import or export. The real level of the damages caused by a measure from paragraph 1 of this article is determined before the competent court.

The customs authorities are not responsible for the possible damage incurred during the conduction of the procedure, if they have acted in accordance to the provisions from the regulations..

Alternative:

Article 165-a should read:

Monitoring over the import, export and re-export of originals and replicated copies of a copyright work and subject matter to the related rights (phonograms, audio visual works etc.) is done by the competent customs authority, in accordance with this Law and the customs Law.

Article 165-b

The goods for which the final court decision confirms the measure in accordance with articles 165 and 165 s from this law, have to be destroyed in a way and procedure determined by the customs regulation. The expenses for the destruction are born by the one who has violated the copyright and related rights.

Art. 166

In order to secure evidence or for other reasons, the author or the right holder according to this Law may register or deposit originals or a copy of his work, phonogram, videogram or an object of his another right at an agent or an association.

Art. 167

A holder of an exclusive copyright of this Law may denote the original or copies of his work with the symbol © before his name, pseudonym or designation and the year of the first disclosure.

A holder of an exclusive right on phonogram according to this Law may denote the original or copies of his published phonogram or their containers with the symbol P before his name, pseudonym or designation and the year of the first disclosure.

Unless the contrary has been proved, the exclusive rights on works or phonograms shall belong to the person indicated according to this Article, paragraphs 1 and 2.

The provisions of this article shall not affect the establishing and protection of rights according to this Law.

Section 4

Penal Provisions

Art. 168

A fine to the amount between 34.000,000 and 300.000,00 denars for misdemeanor shall be imposed on any legal entity which:

- without assignment of an appropriate economic right by the author, in cases when such assignment is required according to this Law, reproduces, distributes, publishes, rents, publicly performs, transmits to the public, **makes available to the public**, presents to the public, publicly exhibits, broadcasts, rebroadcasts, modify or audiovisually adapts a work or copies of a work or in another way without authorization uses a copyright work (**Articles 19 and 99**);
- without mentioning the source and origin, by distortion or in another way, indecently uses a work of folk literature and folk art (Article 42, paragraph 2);
- without mentioning the name, pseudonym or other designation of the author, or by disturbing the integrity of the work or distorting it or by another use of a work in a way that may damage the

personality, honour and reputation of the author, uses a work the protection of whose copyright has expired (Article 52 referred to Article 16, items 4 and 5);

- does not keep appropriate accounts or other documentation of the amount profit sum gained in case where the remuneration has been agreed or determined depending on the profit gained, or does not enable the inspection of the documentation, or does not submit reports of the profits gained to the holder of copyright (Article 70);

- distributes a copy of a computer program or possesses, for commercial purposes, a copy of a computer program which is or can be presumed to be an unauthorized copy (Article 102 **in connection with articles 100 and 101**);

- without assignment of an appropriate exclusive right from the holder of related right (performer or producer), where such assignment is required by this Law, publicly performs, reproduces, distributes or rents fixations of a performance, stage work, phonograms, videograms or editions (Articles 108, 111, 118, 122, 125, 131, 132 and 133);

- **without assignment of an appropriate exclusive right from the holder of related right (performer or producer), where such assignment is required by this Law, publicly performs live, fixates a live performance, records, reproduces, distributes, rents, makes available to the public, publicly transmits, broadcasts, rebroadcasts or in another way uses a performance, fixations of the performance, stage work, phonograms, videograms or editions (Articles 108, 111, 118, 122, 125, 131, 132 and 133);**

- without assignment of an appropriate exclusive rights by a broadcasting organization, where such assignment is required by this Law, records, reproduces, distributes, **makes available to the public or in another way communicates to the public** fixations of a program or in another way uses fixations (Article 129);

- refuses collective administration of the copyright and related right where this is requested by the holder of copyright or related right (Article 150);

- fails to give information on the collective administration of copyright and related right when such information is requested by the holders of rights, or fails to enter into a contract for the assignment of non-exclusive rights (Article 151, paragraphs 1 and 2);

- **fail to submit to the appropriate society, a review of all performed, or disclosed works and to pay an amount in accordance with the tariff of the society (article 152, paragraphs 2, 3, and 4)**

- manufactures, imports, possesses for commercial purposes, distributes, rents or for another use, any kind of means whose sole or main purpose is to unlawfully remove or damage technical equipment or computer program that is used for legal protection against unauthorized use (Article 158, item 1); and

- manufactures, imports, possesses for commercial purposes, distributes, rents or in another way uses any kind of means that enable or facilitate the public to receipt encoded radio or television program-carrying signals without authorization (Article 158, item 2).

- **manufactures, imports for further distribution, possesses for commercial purposes, distributes, rents, advertises sale or rental or possesses for commercial purposes technologies, means, components or computer program or illegally offers services or in another way utilizes any of the listed technical protection, whose unique and main goal is to illegally remove, modify or damage the technical equipment or computer program or any other kind of protection measure and procedure which is used as legal technological protection against illegal use (article 158)**

- **remove or modify information on right management (article 158-a paragraph 1 line 1) and**

- **reproduces, distributes, imports for distribution, rents or communicates to the public, a copyright work or subject matter of related rights whose electronic information regarding right management, have been illegally removed or modified (article 158-1 paragraph 1 line 2).**

A fine to the amount between 1.700,00 and 50.000,00 denars shall be imposed on the institutional legal representative of a legal entity and a self-employed individual for a misdemeanour of this Article, paragraph 1.

A fine to the amount between 1.000,00 and 50.000,00 denars shall be imposed on a natural person for a misdemeanour of this Article, paragraph 1.

For the misdemeanour of this Article, paragraph 1, a legal entity or a self-employed individual shall be pronounced a provisional measure - prohibition on conducting his activities within a time period of three months to one year, and the appropriate collecting society shall be revoked of its licence for collective administration of the copyright and related rights and a provisional measure - seizure of the copies of a copyright work of item 1, the copies of a computer program of item 5, the performance or stage work fixations as well as the phonograms and videograms of item 6, the program fixations of item 7, **databases of item 8**, as well as the means of items 10 and 11 **and 12** of this Article.

For the misdemeanor of this Article, paragraph 1, a provisional measure - seizure of objects from this Article, paragraph 4, shall be imposed on a natural person who commits a misdemeanor of this Article, paragraph 1.

The confiscated objects due to violations of this article, after the court decision, are destroyed.

Art. 169

A fine for misdemeanour to the amount between 34.000,00 and 150.000,00 denars shall be imposed on a legal entity which:

- does not enable the author to inspect the public performance of the work or does not provide adequate technical conditions for the performance (Article 81);
- does not submit a list or information on works used to the competent collecting society within the determined time limit (Article 152, paragraphs 1 and 3); and
- **the competent society will not in writing inform regarding the public performance or disclosure within a certain time frame (article 152, paragraph 2)**
- does not submit information on the sale of original works of fine art and manuscripts of literary and musical works, about the vendor of originals and manuscripts to the competent collecting society within the determined time limit (Article 152, paragraph 4).

A fine to the amount between 1.700,00 and 34.000,00 denars shall be imposed on the institutional legal representative of a legal entity and a self-employed individual who commits a misdemeanour of this Article, paragraph 1.

A fine to the amount between 1.000,000 and 33.000,00 denars shall be imposed on a natural person who commits a misdemeanor of this Article, paragraph 1.

A legal entity or a self-employed individual who commits a misdemeanour of this Article, paragraph 1, shall be pronounced a provisional measure - prohibition on conducting his activities within a time period of three months to one year.

Alternative:

To add a new article which will determine that for an unauthorized use of the copyright and related rights which are larger in scope, i.e. represent activities which have provided larger gain, i.e. a larger damage is done to the author or the holder of the copyright and the related rights is in accordance with the criminal law.

Section 5
Supervision

Art. 170

Supervision on the implementation of this Law shall be carried out by the Ministry of Culture **through inspectors (hereafter: inspector)**, according to this and another Law.

When an authorized person (hereafter inspector) in the course of his supervisory activity well founded suspects that a misdemeanour has been committed, he shall temporarily seize the objects that have been or are intended to be used for the commission of a misdemeanour, or have been created by such a misdemeanour, by decision, according to this Law.

When the inspector, in the course of his supervisory activity, has reasonable doubt that a misdemeanour or a crime has been committed, temporarily confiscates the copies of the copyright works or the copies of the related rights as well as the technical means that have been used or intended for the performance of the misdemeanour or the crime. For the confiscated copyright works and the subject matter of the related rights, the inspector issues a certificate and for the confiscated technical means he passes a decision.

The inspector shall submit the temporarily seized objects, together with a writ for institution of misdemeanour proceedings **or initiative to initiate criminal proceedings**, to the competent authority in misdemeanour proceedings **or the competent court.**

Alternative:

In the article 170 add a new paragraph 5 which reads:

To prevent and persecute unauthorised use of copyright and related rights, which is organized crime with pirate goods, the competence resides with the relevant inspection authority of the Ministry of Internal Affairs, in accordance with this and another law (Law on internal affairs, Crime law etc.)

Art. 170 a

The inspector from Article 170, paragraph 2, of this Law, shall have an identification.

The inspector shall be obligated to identify himself before exercising the inspection.

The supervisory activity is performed on the spot, in the presence of the employee (alternative: person in charge) in the legal entity. Record is kept of the performed supervision and it is submitted to the legal entity.

In the course of the supervisory work, the inspector is authorised to review the business facilities of the legal entity, the complete documentation and the documents pertaining to the performance of the activity and exercise of the copyright, rights of performers and phonogram producers, to take a statement from the employee to request to review personal documents etc. In case of electronic disclosure of data, the inspector is authorised to inspect the electronic documentation regarding the time and manner in which the data have been accessed

The Minister of Culture shall stipulate the printed form of identification and its issuing.

CHAPTER VIII

SCOPE OF APPLICATION OF THIS LAW

Art. 171

Authors and holders of related rights who are citizens of the Republic of Macedonia or have their headquarter in the Republic of Macedonia shall enjoy protection, according to this Law.

Foreign authors and holders of related rights shall enjoy the same protection as persons of this Article, paragraph 1, insofar as this is provided by international agreement or this Law, or where factual reciprocity exists.

Regardless the other provisions of Chapter VIII of this Law, foreigners shall enjoy protection under this Law with respect to the moral rights in all cases and with respect to the right of resale royalty only where factual reciprocity exists.

Reciprocity shall be proved by the person who bases his claim thereon.

Art. 172

Protection under this Law shall be enjoyed by foreign authors:

- who are domiciled in the Republic of Macedonia;
- of works first disclosed in the Republic of Macedonia or disclosed in the Republic of Macedonia within 30 days of having been first disclosed in another country;
- of audiovisual works whose producer has his headquarters or domicile in the Republic of Macedonia; and
- of work of architecture or fine art as an immovable property or its integral part located on the territory of the Republic of Macedonia.

If the copyright work has been created by several authors, the protection according to this Law shall be enjoyed by all of them if at least one of them meets one of the conditions of this Law, paragraph 1.

Art. 173

Protection under this Law shall be enjoyed by foreign performers:

- who have a domicile in the Republic of Macedonia;
- whose performances take place in the territory of the Republic of Macedonia;
- whose performances have been fixed on phonograms that enjoy protection under this Law; and
- whose performances have been taken over in the programs of broadcasting organizations, but with no intention of being fixed on phonograms, that enjoy protection under this Law.

If several performers take part in the performance, a protection under this Law shall be protected by all of them if at least one of them is a citizen of the Republic of Macedonia or has a domicile in the Republic of Macedonia.

Art. 174

Protection under this Law shall be enjoyed by foreign producers of phonograms and film producers whose phonogram or videogram has been first fixed in the Republic of Macedonia.

Foreign publisher in respect of his related rights, shall enjoy protection under this Law insofar the edition has been first published in the Republic of Macedonia or published in the Republic of Macedonia within 30 days of having been first published in another country.

Art. 175

Protection under this Law shall be enjoyed by foreign broadcasting organization that emits its broadcasts through transmitters located on the territory of the Republic of Macedonia.

Art. 176

The time periods provided for protection of rights according to this Law shall apply to foreign holders of **copyright and** related rights who enjoy protection under this Law, and shall expire on the day on which the protection expires in the country of which are citizens, or where their headquarter is located, but not longer than the time periods determined by this Law.

Art. 177

Protection under this Law shall be enjoyed by foreign author and foreign holder of related right whose work, performance or object of related right is disclosed in the Republic of Macedonia through satellite, insofar the appropriate program-carrying signals are entered into an unbroken communications sequence to a satellite and back to the earth in the Republic of Macedonia, are under the control of the competent broadcaster.

The protection, according to this Law shall also be enjoyed, regardless whether the condition of this Article, paragraph 1, has been fulfilled or not, if:

- the receiving station which program-carrying signals are transmitted by, is located in the Republic of Macedonia; or
- the broadcaster that has ordered the broadcast by satellite has its headquarters in the Republic of Macedonia.

Art. 178

Authors and holders of related rights who have no citizenship or whose citizenship cannot be determined - stateless persons, shall enjoy the same protection under this Law as the citizens of the Republic of Macedonia if they have a domicile in the Republic.

Persons of this Article, paragraph 1, who do not have a domicile in the Republic of Macedonia or such cannot be determined but have a necessary residence in the Republic shall enjoy the same protection as citizens of the Republic of Macedonia.

Persons of this Article, paragraph 1, who have neither domicile nor necessary residence in the Republic of Macedonia shall enjoy the same protection as citizens of the State in which they have a domicile or necessary residence.

The provisions of this Article shall apply equally to foreign authors and foreign holders of related rights having the status of refugees under international agreements or the regulations of the Republic of Macedonia.

CHAPTER IX

TRANSITIONAL AND FINAL PROVISIONS

Art. 179

The Ministry of Culture shall announce a competition from Article 144 of this Law for the purpose of issuing a licence for collective administration of copyright and related rights, within one year of the day of entering into force of this Law.

If the Ministry does not issue a licence regarding to the competition of this Article, paragraph 1, it may issue a temporary licence for collective administration of specific rights to a legal entity which does not fulfil the conditions from Article 142 of this Law. The temporary licence determines the term and the conditions for temporary collective administration.

Art. 180

An association that has been collectively administering rights from Articles 91 and 93 of the Law on Copyright (Official Gazette of SFRY) Nos. 19/1978, 34/1978, 24/1986, 75/1989 and 21/1990) prior to the enactment of this Law may continue to do so without the permission of the Ministry of Culture until the Ministry issues a licence for the collective administration of such rights to another collecting society that meets the conditions of this Law.

The rights that, in accordance with this law can be exercised only collectively can be also exercised individually, until the Ministry of Culture gives permission for their collective exercising or until the societies for collective exercises have not conducted the procedure for collective exercise

Tariffs or regulations of the society of this Article, paragraph 1, adopted before entering into force of this Law on the basis of Article 91a of the Law on Copyright (Official Gazette of SFRY Nos. 19/1978, 34/1978, 24/1986, 75/1989 and 21/1990) shall be submitted for permission to the Ministry of Culture within 30 days of the entering into force of this Law.

Art. 181

The provisions of this Law concerning remuneration for disclosure of phonograms (Articles 112 and 119) shall apply after two years of the day of entering into force of this Law.

Art. 182

The provisions of this Law shall not apply to contracts or activities for use concluded or accomplished before it enters into force, unless otherwise determined by this Law.

Art. 183

The provisions of this Law concerning computer programs and databases shall also apply to computer programs and databases created before the day on which this Law enters into force, unless it affects the contracts and rights concluded or acquired prior to that day.

Art. 183-a

This law is applied for protection of databases as subject matter to related rights, if by the day of enactment of this law, its production has completed after 1st of January 1983.

Art. 184

This Law shall apply to all copyright works and performers' performances that, at the time of its entering into force, have enjoyed protection under the Law on Copyright (Official Gazette of SFRY Nos. 19/1978, 34/1978, 24/1986, 75/1989 and 21/1990).

This Law shall also apply to objects of related rights if, 20 years have not expired from the time of their first legal publication or fixation to the day of entering into force of this Law.

This law shall also apply to the protection of fixated performances of the performers, if by the day of enactment of this law 50 years have not passed from the day when the fixations were first made/ If during that period, they have been for the first time publicly publishes or communicated to the public, the protection of the fixated performances is applied if 50 years have not passed from the first public publication or communication to the public.

This law shall apply to the protection of phonograms and phonogram producers, if by the day of enactment of this law, 50 years have not passed from the day when they have been fixated for the first time. If during this period, they have been legally published, the protection of the phonogram is applied if 50 years have not passed from their first legal fixation. If during this period the phonograms have not been published and they are communicated to the public for

the first time, the protection of the phonogram applies if 50 years have not passed from the first legal communication to the public.

This law applies to the protection of the rights of the broadcast organizations and their broadcasts, if by the day of enactment of this law, 20 years have not passed (alternative 50) from, the day when they have been broadcasted for the first time.

This law applies to the protection of databases as subject matter of the related rights, if by the day of enactment of this law, their preparation is completed after 1st of January 1983.

Art. 184 a

The Act from Article 170a of this Law shall be pronounced by the Minister of Culture within a time period of three days from the day of entering into force of this Law.

Art. 185

On the day of entering into force of this Law, the Law on Copyright (Official Gazette of SFRY Nos. 19/1978, 34/1978, 24/1986, 75/1989 and 21/1990) shall cease to apply.

Art. 186

This Law shall enter into force on the eighth day following its publication in the Official Gazette of the Republic of Macedonia.

REFERENCES

CONVENTIONS:

1. Universal Copyright Convention, adopted in Geneva on September 1952, revised at Paris on July 24, 1971;

- Law on Ratification of the Universal Copyright Convention, (Official Gazette of SFRY, 54/73) - Taken over from former SFRY on the base of succession;

2. The Berne Convention for the Protection of Literary and Artistic Works, Paris Act of July 24, 1971, as amended on September 28, 1979;

- Law on Ratification of the Berne Convention for the protection of Literary and Artistic Works, of March 12, 1975, Belgrade (Official Gazette of SFRY, 14/75 and 14/86) - Taken over from former SFRY on the base of succession; By Notification Berne No. 187 revoked the reservation of nonapplication of the Article 8 from the Convention;

3. Rome Convention, International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, at Rome, October 26, 1961;

- Law on ratification of the Rome Convention, International convention for the protection of performers, producers of phonograms and broadcasting organisations, (Official Gazette of RM, 50/97) - With reservations of nonapplication of the Article 5 (1) (c) according to Article 5 (3) of the Convention and Article 12 according to Article 16 (1) (a) (i) of the Convention;

4. Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, of October 29, 1971;

- Law on Ratification of the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, (Official Gazette of RM, 47/97);

5. Convention Relating to the Distribution of Programme - Carrying Signals Transmitted by Satellite, at Brussels on May 21, 1974 (Official Gazette of SFRY) - Taken over from former SFRY on the base of succession.

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1. WIPO Copyright Treaty, of December 20, 1996; and

2. WIPO Performances and Phonograms Treaty, of December 20, 1996; Provisions of the both Treaties incorporated.

DIRECTIVES OF THE EUROPE COUNCIL:

1. Council Directive on the legal protection of computer programs, No. 91/250/EEC of May 14, 1991;

2. Council Directive on rental right and lending right and on certain rights related to copyright in the field of intellectual property, 92/100/EEC of November 19, 1992;

3. Council Directive on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission, 93/83/EEC of September 27, 1993;

4. Council Directive harmonizing the term of protection of copyright and certain related rights, 93/98/EEC, of October 1993;

5. Directive 96/9/EC of the European Parliament and of the Council of March 11, 1996 on the Legal Protection of Databases (referred to databases in the part of provisions of databases as copyright work. Sui generis right of databases not incorporated yet).

RECOMMENDATIONS OF THE COUNCIL OF EUROPE:

- 1. Council Recommendation on the rules referred to the copyright matters in the field of satellite and cable television, No. R (86) 2;**
- 2. Council Recommendation on sound and audiovisual private reproduction, No. R (88) 1;**
- 3. Council Recommendation on the measures against piracy in the field of copyright and related rights, No. R (88) 2;**
- 4. Council Recommendation on the rules referred to copyright matters in the field of reprography, No. R (90);**
- 5. Council Recommendation on the legal protection of the encoded television broadcasts, No. R (91) 14.**

OTHER REGULATIONS:

- 1. Agreement on Trade - Related Aspects of Intellectual Property Rights (TRIPS Agreement, 1994)**