

# **THE LAW ON COPYRIGHT AND RELATED RIGHTS OF THE REPUBLIC OF AZERBAIJAN**

## **S E C T I O N I.**

### **GENERAL PROVISIONS**

#### **Article 1. Aim of the law**

This law regulates the terms arisen from creation and use of scientific, literary and artistic works (copyright), also performances, phonograms, programs of air broadcasting or cable broadcasting organizations (related rights) in the territory of the Republic of Azerbaijan.

#### **Article 2. Legislation on Copyright and Related Rights**

The legislation of the Republic of Azerbaijan on copyright and related rights consists of the Constitution of the Republic of Azerbaijan, Civil Code of the Republic of Azerbaijan, This Law, other normative-legal acts and international agreements to which the Republic of Azerbaijan is party,

In case the rules determined in the international agreements to which the Republic of Azerbaijan is party differ from the rules determined in this Law, the rules of international agreements shall be applied.

#### **Article 3. Scope of the Law**

The provisions of this law shall be applicable to the followings:

1. scientific, literary and artistic works, performances and phonograms, belonging to a copyright or related rights holder who is a natural person and the citizen of the Republic of Azerbaijan, or has permanent residence in the territory of the Republic of Azerbaijan, or who is legal entity in accordance with the legislation of the Republic of Azerbaijan;

2. scientific, literary and artistic works, or phonograms that were first promulgated in the territory of the Republic of Azerbaijan, or those that were first promulgated outside the Republic of Azerbaijan, but were thereafter promulgated in the territory of the Republic of Azerbaijan within 30 days;

3. performances which have been first performed within the territory of the Republic of Azerbaijan, or performances recorded on phonogram that is protected in accordance with the provisions of the second paragraph of this article, or performances not recorded on phonogram, but that included in the protected program of broadcasting organization under fourth paragraph of this article;

4. transmissions of broadcasting organizations that are considered legal entity according to the legislation of the Republic of Azerbaijan and broadcast via transmitters located in the territory of the Republic of Azerbaijan;

5. works of architecture located in the territory of the Republic of Azerbaijan;

6. other scientific, literary or artistic works, performances, phonograms and programs of broadcasting organizations protected pursuant to the international agreements to which the Republic of Azerbaijan is party;

7. within the territory of the Republic of Azerbaijan pursuant to international agreements to which the Republic of Azerbaijan is party, protection shall be granted to those works and related rights objects of which term of protection determined for that object in the country of origin still remains in effect;

Term of protection for copyright and related rights in the territory of the Republic of Azerbaijan shall not be more than the term of protection determined in the country of origin;

8. Pursuant to international agreements of the Republic of Azerbaijan or on the base of mutual principles, provisions of this law shall be together with applied to foreigners and those who are not citizens.

#### **Article 4. Main Definitions**

Main definitions used in this Law have the following meanings:

- **“author”** – a natural person who created a work;
- **“audiovisual work”** – a work consisting of a fixed series of inter-related video frames (accompanied with or without a soundtrack) which is intended for visual or auditory perception and transmitted via specialized technical devices; audiovisual works – irrespective of initial and following fixation means – include cinematographic works and other works fixed by the means like cinematographic means (TV films, video films, diapositive films etc.);

- **“database”** – an aggregate of systemized data (articles, calculations, facts and other materials), in which the selection and placement of components result from creative work and the components of which can be found and analyzed via computer (ECM);
- **“reproduction”** – manufacturing of one or more specimens of a work or phonogram in any material form, including audio and video recording forms. Recording of works and phonograms in electronic (including digital), optical or other computer-readable form for temporary or permanent storage is also considered reproduction;
- **“fixation”** – embodiment of sounds and (or) moving images with the help of special technical means on the appropriate material medium that allows their perception, reproduction or notification many times;
- **“producer of an audiovisual work”** – a natural person or a legal entity that undertakes the initiative and responsibility for the producing of audiovisual work. Unless proven the contrary a natural person or a legal entity whose name is denoted in an audiovisual work in the usual way shall be considered producer of an audiovisual work;
- **“play director”** – stage manager of audiovisual work and a person staging theatrical, circus, puppet-show, variety, TV performances and other performances or giving structure to such performances;
- **“pirated product”** – copies of work and phonogram made (produced) without the consent of author or related right holder;
- **“phonogram producer”** – a natural person or a legal entity that undertakes the initiative and responsibility for the first recording of performance or other sounds. Unless proven the contrary, a natural person or a legal entity whose name is denoted in that phonogram and (or) on its casing in the usual way shall be considered the phonogram producer;
- **“performer”** – an actor, singer musician, dancer or other person who acts, sings, recites, declaims, plays a musical instrument, or otherwise performs works of literature and art (including variety, circus acts or puppet-shows);
- **“computer”** – is an electronic or similar device having information-processing capabilities;
- **“computer program”** – a set of instructions expressed in words, codes, schemes or in any other form, which is capable, when incorporated in a medium that the computer can read, of causing a computer to perform or achieve a particular task or result. Computer program also includes preparatory materials obtained during its preparation and audiovisual images generated by the program;
- **“collective work”** – is a work that is created by two or more natural persons with the initiative and under supervision of a natural person or a legal entity on condition that the work shall be published under latter’s name;

- **“derivative work”** – translations, adaptations, quotations, annotations, essays, commentaries, dramatizations, arrangements, remaking of science, literature and artistic works;
- **“the collection”** – set of independent works as a result of creative activity with respect to the selection and placement of works;
- **“traditional knowledge”** - innovations and creativity results in the field of science, literature, art and industry resulted from intellectual activity based on tradition and safeguarded by transferring from generation to generation;
- **“disclosure to the public of a work”** – an action accomplished upon the consent of the author that makes a work available to the public for the first time through publication, public demonstration, public performance, broadcast and other methods;
- **“publication”** – putting copies of a work or phonogram into circulation with the consent of the author of work or phonogram producer to meet the needs of public; providing an opportunity to use work and phonogram via electronic-information system tools shall be also considered publication;
- **“program of broadcasting organization”** – a program created by air or cable broadcasting organization itself or with its funding by another organization;
- **“work of applied art”** – a work of art including hand-made or created by industrial means for daily use, or one applied to objects so used;
- **“photographic work”** – is a recording of light or other radiation on any medium from which an image may be produced irrespective of the fixation technique (chemical, electronic etc); a still picture extracted from an audiovisual work shall not be considered a photographic work;
- **“public performance”** – presentation of works, performances, phonograms, broadcast organization transmissions by declamation, playing, singing and other method both in live performance and via any devices or processes (except for air and cable transmission) in places that are or can be attended by persons not belonging to members of family or close acquaintances of this family;
- **“public display”** – any demonstration of the original or specimen of a work, performance, broadcast organizations program either directly or on screen by means of a film, slide, frame (except for air and cable transmission) or via other devices or processes that can be perceived by the persons not belonging to members of a family or close acquaintances of this family. Demonstration of separate frames of audiovisual work without observance of their sequence shall also be considered public display;
- **“free use”** – giving the ownership right of the original or specimen of the work for a certain time to the libraries, archives or other organizations which are serving to the people free of charge.

- **“communication to the public”** – any demonstration, performance, radio or telecasting, or any other activity (except for distribution of specimens of work or phonogram) of works and related rights objects making it possible for the images and sounds to be perceived by persons irrespective of whether or not the said persons can perceive the images or sounds;
- **“public communication”** – making available to the public of works and related rights objects by broadcasting, cablecasting, also irrespective of perceive of communication, via any other method making it available including interactive method (except for distribution of specimens of work and related right objects);
- **“interactive public communication”** – making available to the public of works and related rights objects according to personal choice of persons at any place and any time;
- **“distribution of works and related rights objects”** – making available of the original or copies of a work or an object of related rights to the public by sale or other transfer of ownership;
- **“technological protection measures”** – any technological device or its component that is designated to prevent or restrict acts in respect of works or related rights objects which are not authorized by owner of rights and that allows to keep under control the accession to works or related rights objects;
- **“rights management information”** – information which identifies the work, the author of the work, the owner of any right in the work, or information about the terms and conditions of use of the work, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work or appears in connection with the communication of a work to the public
- **“reprographic reproduction”** – facsimile reproduction of any size (including enlarged or reduced) of the original of a written or other graphic work or a specimen thereof by photocopying or other similar methods, except for publication;
- **“rental”** – the transfer of the possession of original or copy of a work, phonogram or an object protected under this Law for a limited period of time, and for direct or indirect economic or commercial advantage;
- **“joint work”** – a work created by two or more authors, except for collective works, as stipulated in this article;
- **“communication to the public by broadcast”** – communication to the public of works, performances, phonograms, programs of broadcasting organizations by radio and television (except for cable television) also via satellites. Communication to the public of works, performances, phonograms, programs of broadcasting organization through air via satellite means reception of signals sent from earth by satellite and making available to the public of works, performances, phonograms, programs of broadcasting

organization through those signals irrespective of whether public receives it or not. Transmission of encrypted signals shall be considered broadcasting where the means for decrypting are provided to the public by the broadcasting organization or with its consent;

- **“communication to the public by cable”** – communication to the public of works, performances, phonograms, programs of broadcasting organizations by cable, wire, optical conductor and other analogous means;

- **“phonogram”** - any exclusively aural fixation of sounds of a performance and of other sounds;

- **“copy of a work”** - specimen of a work, produced in any material form;

- **“copy of a phonogram”** – specimen of a phonogram on the appropriate material medium produced directly or indirectly from this phonogram and containing all sounds or a portion of the sounds fixed on the phonogram;

- **“retransmission”** – broadcasting (cablecasting) of program of broadcasting organization by another broadcasting organization simultaneously.

## **SECTION II COPYRIGHT**

### **Chapter I Objects of Copyright**

#### **Article 5. Object of Copyright**

1. Copyright shall be granted to both disclosed and undisclosed scientific, literary and artistic works those exist in objective form and are results of creative activity irrespective of purpose, value and content, also expression form and method.

Neither registration of a work or any other special formalization thereof, nor performance of any other formalities shall be required for the creation and exercising of copyright.

2. Disclosed and undisclosed works to which copyright shall be granted may exist in the following objective forms:

- written form (manuscript, typewritten text, musical notation, etc.);
- oral form (public recitation, public performance, etc.);
- audio or video recording (mechanical, magnetic, digital, optical, etc.);
- descriptive form (drawing, sketch, painting, plan, still picture from a cinematographic or television or video film, photograph, etc.);
- three-dimensional form (sculpture, model, dummy, structure, etc.);
- any other form.

Portions of a work (title, character etc) having signs specified in first paragraph of this article and that can be used independently, shall be considered an object of copyright.

3. Copyright protection shall be granted only to the form of expression of a work and shall not apply to any ideas, processes, methods or mathematical concepts.

4. Copyright to a work is not connected with the property right to the material object on which the work is expressed.

The transfer of property right of material object or ownership right of material object shall not in itself cause the transfer of copyright of work expressed on this object except for the cases indicated specially in Law.

## **Article 6. Works, which are the objects of copyright.**

1. The objects of the copyright are the following:

- literary works (books, brochures, articles, lectures and speeches computer programs etc);
- dramatic or dramatic-musical works and other works created for stage presentation;
- choreographic works and pantomimes;
- musical works with or without lyrics;
- audiovisual works (cinematographic, television and video films, static projections, slide films and other cinematographic and television works);
- works of sculpture and painting, graphic and design works, lithographic stories, comics and other works of descriptive art;
- works of decorative applied art and stage design, hand-woven carpets;
- works of architecture, city construction, garden and park art;
- photographic works, including works made by methods similar to photography;
- maps, plans, sketches, illustrations and plastic works related with geography, topography and other sciences;
- derivative works (translations, modifications, quotations, annotations, essays, commentaries, dramatizations, arrangements, remaking of science, literature and artistic works;
- collections;

Derivative works and collections shall be protected by copyright whether or not the works on which they are based, or which they themselves include are the subjects of copyright.

- Programs of TV-radio transmissions, catalogues, booklets, photo albums, contents, multimedia products (works) and other works.

2. Computer programs shall be protected like literary works. The protection of computer programs shall extend to all types of computer program, including operating systems, regardless of the language and form in which they are expressed, including the initial text code and the object code.



## **Article 7. Objects not covered by copyright protection**

The following items shall not be objects of copyright:

- Official documents (laws, court decisions, other texts of legislative, administrative or judicial character) and their official translations;
- State emblems and official signs (flags, arms, anthems, orders, monetary signs and other State symbols and official signs);
- Folk creativity (folklore) expressions ;
- News of day, data about various events and the facts of information character.

## **Article 8. Arising of copyright. Presumption of Authorship**

1. A person who created a work shall be considered author of it. Unless proven to the contrary, the person whose name indicated under the work shall be deemed the author.

2. In order to announce his exclusive rights to work, copyright owner has a right to use copyright protection sign that is indicated in each copy of work and consists of 3 elements:

- an encircled Latin letter C - ©;
- a name of the owner (natural person or legal entity) of the exclusive rights;
- a year of first publication of the work.

3. In case a work is published anonymously or under a pseudonym (except when a pseudonym unequivocally identifies the author), the publisher of the work whose name appears thereon, unless proven the contrary, shall be considered representative of author in accordance with this Law and shall have a competence to protect and exercise latter's rights. This provision shall remain in force until the author of the work discloses his name and declares his authorship;

4. Copyright owners of exclusive rights with respect to a disclosed or undisclosed work may have its copyright registered at any time during the copyright protection term at the relevant executive body of the Republic of Azerbaijan acting in the field of copyright.

5. A certificate is granted to copyright owner having the work registered of which sample is affirmed by relevant executive body. In disputable

situations, in case of absence of other proofs, the registration certificate is recognized by court as presumption of authorship.

### **Article 9. Copyright with respect to joint works (co-authorship)**

Copyright with respect to a work created in co-authorship shall be vested with all co-authors irrespective of whether the work is a single inseparable item or is composed of parts each having independent significance.

The right to use a work as a whole shall be vested with all co-authors.

If a work is created in co-authorship, none of co-authors shall, without sufficient grounds, deny permission to the other authors to use the work.

If a part of joint work having independent significance can be used without other parts of work, it shall be considered an independent work.

If a work created in co-authorship consists of parts each having independent significance, each of the co-authors shall be entitled to use the part he created at his own discretion, unless otherwise stipulated in an agreement between the co-authors.

Relations between co-authors shall be stipulated by an agreement made between them.

Each of co-authors separately shall have the right to have the work registered at the relevant executive body of the Republic of Azerbaijan acting in the field of copyright and to get certificate on registration of the work, also independently to take measures on enforcement of his rights even if the parts of the work are inseparable.

### **Article 10. Copyright with Respect to Composite Works and Collections**

1. The author of a collection and other composite works (compiler) shall hold the copyright with respect to his selection and placement of the materials resulting from his creative effort.

The compiler of a composite work shall hold the copyright provided that he observes the rights of the authors of each of the works incorporated in the composite work. The authors of the works incorporated in a composite work shall be entitled to use their works independently of the composite work, unless otherwise stipulated by the author's contract with the compiler of the composite work.

The copyright of the compiler of a composite work shall not hinder other persons' independent selection or placement of the same works and (or) other data for creating their own works.

2. The natural persons and legal entities publishing encyclopaedias, encyclopaedic dictionaries, periodic collections, and collections of scientific works, newspapers, magazines and other periodicals shall hold the exclusive rights to use such publications in their entirety.

The publisher shall be entitled to indicate his name (organizations name) or to require indication thereof in the publications with respect to any use of such publications.

The authors of the works incorporated in such publications shall preserve the exclusive rights to use their works irrespective of the entire publication, unless otherwise stipulated by an author's contract.

### **Article 11. Copyright with respect to derivative works**

Translators and authors of other derivative works shall hold a copyright with respect to their translation, adaptation, arrangement or other re-making.

The translator and the authors of other derivative works shall hold the copyright with respect to their work provided that they observe the rights of the author whose work has been translated, adapted, arranged or otherwise remade.

The copyright of translators and authors of other derivative works shall not hinder other persons' translation and remaking of the same works.

### **Article 12. Copyright with respect to audiovisual works**

1. The authors (co-authors) of an audiovisual work shall be:

- The play director;
- The scriptwriter;
- Art director;
- Cameraman;

- The author of a musical work (with or without lyrics), specially created for the audiovisual work;

The author of the work that used in preparation of the scenario of an audiovisual work, or created during working process on audiovisual work, or included in audiovisual work as a part, shall be considered author of audiovisual work with respect to his own part.

The authors who agreed their works to be included in audiovisual work shall have no right to forbid or limit in any form, the use of audiovisual work.

2. Unless otherwise stipulated in a contract concluded between authors and film producers for the creation of an audiovisual work, exclusive rights shall be granted by authors in accordance with that contract to producer of an audiovisual work for reproduction, distribution, public performance, public display, cablecasting, broadcasting or other public communication of a work, also subtitling or dubbing of its text. Indicated rights shall remain in the force during the copyright to audiovisual work remains in the force.

The producer of audiovisual work shall be entitled to indicate his name or organizations name or to require indication thereof with respect to any use of such works.

3. The author of a musical work (with or without lyrics), specially created for the audiovisual work shall preserve a right to receive authorship remuneration for public performance of his musical work during public performance of audiovisual work.

4. All authors of an audiovisual work shall preserve the right to receive remuneration for commercial rental of original or specimens or other uses of work. That remuneration shall be paid in accordance with the terms indicated in an agreement concluded between right holder of this work or collective management organizations and user.

### **Article 13. Copyright with Respect to Course-of-Duty Works**

1. The copyright with respect to course-of-duty works shall be vested with the author thereof.

2. The exclusive right to use course-of-duty work shall be vested with the person with whom author has got labour relations (employer), unless otherwise stipulated in a contract concluded between them.

An author of course-of-duty work shall preserve the right to receive the remuneration for the use of course-of-duty work in any form (republication,

translation, remaking of course-of-duty work etc). The amount of authors remuneration for any kind of use of a course-of-duty work as well as relevant payment procedure shall be stipulated in the contract between employer and author.

3. In case course-of-duty work is not used without any grounds during 3 years, exclusive rights to use the work shall be passed to author. This term may be reduced according to the agreement between parties.

4. The employer shall be entitled to indicate his name or require indication thereof with respect to any use of course-of-duty works.

5. The provisions of this Article shall not be applied to collective course-of-duty works (Article 10 of this Law).

## **Chapter II**

### **Author's Rights**

#### **Article 14. Moral (non-property) Rights**

1. The following moral (non-property) rights shall be vested with the author of work:

- To be identified as author of his work (right of authorship);
- To use a work under his own name, or under pseudonym, or without name (anonymous), or to give permission for such use (right of name);
- Right to object to any distortion, mutilation or other modification of a work, or other derogatory action in relation to it, which would be prejudicial to the honour or reputation of the author (right of respect);
- Right to decide whether the work should be made available to the public including the right to withdraw the copies from circulation (right of disclosure).

2. Moral rights are inseparable and non-transmissible and belong to author independent of property rights and these rights shall remain with author even in cases the property right is assigned to others.

3. Author on condition that to reimburse damage and lost profit to user, shall have the right to cancel the decision on disclosure of work (right of withdrawal). If a work has already been disclosed, author shall make the said

withdrawal made available to the public. In this case the author shall have a right to buy the copies made until that time at his own expense.

The provisions of this paragraph shall not be applied to course-of-duty and audiovisual works.

## **Article 15. Property (economic) Rights**

1. Unless otherwise stipulated in this Law author or other right holder shall be vested with exclusive right to use the work in any form and in any manner.

2. exclusive right to use the work means to exercise, authorize or prevent followings:

- direct or indirect reproduction of the work (**right of reproduction**);
- distribution of originals or specimens of works by sale or other transfer of property right (**right of distribution**);
- transfer for commercial rental of original or specimens of work (**rental right**);
- import of specimens of the work for the purpose of distribution including specimens produced on consent of author or owner of exclusive copyright (**right of importation**);
- public display of work (**right of public display**);
- public performance of the work (**right of public performance**);
- Public communication of work with a purpose of making available to the public including public communication by broadcasting and cablecasting (**right of public communication**);
- communication to the public of the work by broadcasting including its first and following communications to the public (**right of communication to the public by broadcasting**);
- communication to the public of the work, by cablecasting including first and following communications to the public (by cable, wire or other similar means) (**right of communication to the public by cable**);
- communication to the public of the work for interactive use (**right of interactive public communication**);
- translation of the work (**right of translation**);
- Adaptation, arrangement or other transformation of the work (**right of adaptation**).

Authors' exclusive rights to use projects of architecture, city construction, garden and park art shall also include circumstance of practical use of such projects. Author of adopted architectural project shall have a right to demand from customer to participate in preparation of documents for construction and in construction of building.

Except for the cases of author's refusal from remuneration and limitations determined with this Law, author's remuneration shall be paid for any use of a work.

3. If specimens of lawfully published work are legally put into civil circulation through their sale, it shall be permissible to repeatedly distribute them without the consent of the author and without payment of author's remuneration (except for the case indicated in Article 16 of this Law).

Nevertheless, the right of distribution of original or specimens of work through rental shall belong to the author and other owner of copyright, irrespective of property right to those specimens.

4. An author shall have the right to require payment of author's remuneration for any kind of use of a work (**right of remuneration**). The amount and calculation method of this remuneration shall be determined through author's contracts concluded between authors (right holders) and users, or through contracts concluded between collective management organization within the competence given by authors and users.

5. Limitations for economic rights provided for in second paragraph of this Article shall be determined with 17-24 Articles of this Law provided that such limitations do not prejudice normal use of a work or unreasonably limit the author's legitimate interests.

#### **Article 16. Right to Have Access to Work of Fine Art. Resale right**

1. Author of fine art work, also writer or composer shall be entitled to demand access to such work or manuscript for the purpose of using it for reproduction (**right of access**). Nevertheless, author can not demand delivery of work from owner.

2. The transfer of ownership of a works indicated in 1<sup>st</sup> paragraph of this Article from author to other person shall be considered the first sale of work (whether with or without payment).

In each case of public resale of originals of fine art works or manuscripts of the writer and the composer (through auction, fine arts gallery, art salon, shop and so on) after the first transfer of the ownership right to such works, if the price is 20% more than the previous sale, the author or his heirs shall have the right to receive 5% of sale price (**resale right**).

That right is inseparable during the lifetime of author and transferable only to the author's heirs by Law or testament throughout the duration of the copyright.

### **Article 17. Free Use of Works and Phonograms for Personal Purposes**

1. It shall be permissible to reproduce one copy of works previously published lawfully for personal purposes without the consent of author or other copyright owner and without payment of author's remuneration, on non-profit base.

2. The provisions of paragraph 1 of this Article shall not be applied to followings:

- reproduction of works of architecture in the form of buildings and structures;
- reproduction of databases or substantial parts thereof;
- reproduction of computer programs, except for the cases provided for in Article 24 of this Law;
- reprographic reproduction of books (on the whole), sheet music and originals works of fine art;
- reproduction of work without the consent which communicated to the public interactively;
- any reproduction of work prejudicing normal use or unreasonably limiting author's interests communicated to the public interactively.

3. While reproducing audiovisual work or phonogram for personal and without commercial purpose, authors, performers and audiovisual work producers with respect to audiovisual work, performers and phonogram producers with respect to phonogram shall be entitled to receive remuneration. Indicated remuneration shall be paid by manufacturer or importer of equipment used for reproduction (audio and videotapes, other equipments) and material media (audio (or) video cassettes, laser discs and other material media).

Minimum amount, portion and procedure for paying the remuneration indicated in this Article shall be determined by relevant executive body.



4. The collection and portion of remuneration indicated in third paragraph of this Article shall be carried out by organization managing economic rights of authors, performers and phonogram producers collectively, in accordance with the contract concluded among them. Unless otherwise stipulated in indicated contract, the remuneration shall be divided in following portion: 40%-to authors, 30%-to performers, 30%-to phonogram producers.

The amount and procedure for paying the remuneration shall be determined by contract concluded between indicated manufacturer or importer on the one hand, and authors, performers and audiovisual work and phonogram producers or collective management organizations managing their economic rights on the other hand. In case parties can not agree, indicated amount and procedure shall be determined by relevant executive body of the Republic of Azerbaijan acting in the field of copyright.

Portion of remuneration for personal purposes as indicated in first paragraph of this Article, shall be implemented among authors or other owners of rights, performers and phonogram producers in ordinary way.

5. In case the equipment and material media indicated in third paragraph of this Article are exported and are professional and not designed for use for recording in home conditions, no remuneration shall be paid for them.

When indicated equipment and materials are imported by natural persons for personal purposes only, no remuneration shall be paid.

#### **Article 18. Reprographic reproduction of works by libraries, archives and educational institutions.**

1. Reprographic reproduction of work without consent of author or other right holder and without paying author's name and of source of borrowing, without commercial purpose and to the extent justified by the intended purpose:

a) for libraries and archives reprographic reproduction of lawfully published works in order to replace a lost, damaged or unusable specimens of a work; giving of specimens of works in order to replace a lost, damaged or unusable specimens at other libraries' or archives' foundations, provided that in ordinary condition buying of such specimens is not possible in another way;

b) reprographic reproduction in a single copy of lawfully published separate articles and other small works or excerpts from work, or other short excerpts from written works (except for computer programs) made upon natural persons request by libraries;

c) reprographic reproduction of lawfully published separate articles and other small works or short excerpts from written works for training at educational institutions.

### **Article 19. Use of a Works for informational, scientific, educational and other purposes**

The following shall be permitted without the consent of the author or other copyright holder and without paying the author's remuneration, but with mandatory indication of the author's name and of the source of borrowing:

1. the use of short excerpts in original or in translation as quotations from lawfully published works, also from newspapers and magazines to the extent justified by the intended purpose, in the form of press reviews for scientific, research, polemical, critical and informational purposes;

2. the use of short excerpts from lawfully published works to the extent justified by the intended purpose, in publications, radio and broadcastings, sound and video recordings of an educational nature;

3. the reproduction in newspapers, magazines and other periodicals or public performance of lawfully published articles on current economic, political, social and religious issues or broadcast works of the same nature, except for the cases prohibited by author or other copyright owner;

4. to reproduce, in order to present current events by means of photography or cinematography, broadcasting, cablecasting or other public communication of works seen or heard in the course of such events to the extent justified by the informational purpose. Nevertheless, the right of author to publish such works in collections shall remain in the force;

5. the reproduction in newspapers, magazines and other periodicals of open political speeches, views, addresses, lectures, thoughts in propaganda character and speeches made during court and other works of the same nature, or public communication thereof to the extent justified by an informational purpose. Nevertheless, the right of author to publish such works in collections shall remain in the force;

6. the reproduction of lawfully published works in Braille characters or other special means without commercial purpose (except for the works created especially for publication by such means).

## **Article 20. Use of Works Permanently Located in a Public Place**

The reproduction, or public communication of architectural works, photographic works and works of fine art permanently located in a public place shall be permissible without the author's or other copyright owner's consent and without paying author's remuneration, except where the presentation of the work constitutes the main feature of the said reproduction, or public communication, if it is used for commercial purposes.

## **Article 21. Public performance of works during official and other ceremonies**

It shall be permissible without consent of author or other copyright owners and without paying author's remuneration to carry out the public performance of lawfully published musical works during official and religious ceremonies, as well as funerals, to the extent justified by the nature of such ceremonies.

## **Article 22. Reproduction of works for judicial purposes**

It shall be permissible without consent of author or other copyright owners and without paying author's remuneration to reproduce works for court and administrative proceedings, to the extent justified by this purpose.

## **Article 23. Ephemeral Short-Term Recording by broadcasting organizations**

A broadcasting organization may, without the author's consent and without payment of any additional remuneration, make an ephemeral recording of the work for which it has obtained the right of broadcasting, on condition:

a) that the broadcasting organization makes the recording with its own equipment and facilities and for the purposes of its own broadcasts;

b) of obligation to destroy the recording within six months after it was made, except where a longer period has been agreed upon with the author of the work recorded; the recording may be preserved in official archives without the author's consent if it is of purely documentary character.

**Article 24. Reproduction of computer software and databases.  
Decompilation of computer programs**

1. A person lawfully possessing a computer software or database shall be entitled to do the following without the consent of the author or other copyright owner and without paying remuneration with respect to the software:

- a) to modify the computer software or database with the aim of ensuring its operation when it is used with the user's technical equipment, and performing the actions related to the operation of the computer software in accordance with its purpose, in particular, to record and store in computer (any computer or a user computer connected to computer net) memory and to correct evident errors;
- b) to manufacture one reserve copy of computer software or database of legitimate owner, provided that the copy is made only for archival purposes or to replace a lawfully acquired specimen in case the original computer software is lost, destroyed or becomes unusable.

2. Reserve copy of computer software or database shall not be used for the purposes other than those stipulated in first paragraph of this Article and shall be destroyed when ownership right to computer software or database ceases.

3. A person possessing the copy of computer software lawfully shall be entitled to decompile computer software without permission of author or other copyright owners and without paying remuneration or if the necessity of compilation of program made by other person independently with other programs and decompiled programs arise for achievement of interaction, in this case he shall have a right to charge that person decompilation of program subject to the following conditions:

1) this person previously had no other sources of access to the information necessary for the achievement of the interaction;

2) said actions are performed only with respect to those computer software portions that are necessary for the achievement of the interaction;

3) the information obtained upon decompilation shall be used only to achieve its interaction with other software, and shall not be transferred to other persons, and shall not be used for the development of computer software that looks similar to the decompiled computer software, or for any other copyright-infringing action.

## **Chapter III**

### **Duration of Copyright**

#### **Article 25. Duration of Copyright**

Copyright to a work shall arise as a result of the fact of its being created and shall remain in the force throughout the author's lifetime and for 70 years after his death, except for the cases stipulated in Article 26 of this Law.

The author's moral rights shall be protected in perpetuity. After death of author, protection of his moral rights shall be exercised as stipulated in Article 29 of this Law.

2. The term of protection stipulated in first paragraph of this Article and Article 26 shall be calculated from beginning of the year following the year in which the protection term of the legal fact occurs.

3. Duration of protection determined by this Law shall be applied to all works of which term of protection has not expired until this Law enters into force.

#### **Article 26. Special durations of copyright**

1. With respect to works published anonymously or under a pseudonym, the duration of copyright shall terminate 70 years after the lawfully publication of the work.

If the author of a work, published anonymously or under a pseudonym, is disclosed not later than 70 years after the publication of the work or if a pseudonym accepted by an author afterwards leaves no doubts as to the author's identity, provisions of first paragraph of Article 25 shall be applied.

2. Copyright to works created in co-authorship shall remain in effect throughout the co-authors' lifetimes and for 70 years after the death of the last co-author.

3. Copyright to a work that was first published within 30 years after the author's death shall remain in effect for 70 years after the date of the lawful publication thereof.

4. The rights stipulated in Article 10 of this Law to the collective works shall remain in effect for 70 years after the publication of such works, if they are not published after creation thereof.

### **Article 27. Public Domain**

1. The expiration of the period of validity of copyright with respect to works means their falling into the public domain.

A work that has never enjoyed protection within the territory of the Republic of Azerbaijan shall be considered public domain.

Azerbaijani folklore expressions (traditional cultural expressions) and Azerbaijani traditional knowledge shall be included in public domain.

Azerbaijani folklore expressions shall be protected under the Law of the Republic of Azerbaijan “on Legal Protection of Azerbaijani Folklore Expressions”.

It shall be permissible to use the works fallen into the public domain freely and without paying authors’ remuneration, except for the cases stipulated in second paragraph of this Article, subject to observance of authors moral rights stipulated in Article 14 of this Law.

2. Relevant executive body may announce the works of Azerbaijani authors that fallen into public domain as state domain and may determine special payments for the use thereof. The remuneration calculated for the use of works fallen into state domain shall be transferred to the state budget.

## **Chapter IV**

### **Transfer of Copyright. Author’s Contract.**

#### **Article 28. Transfer and Assignment of Copyright**

The economic rights of the author provided by the this Law shall be assigned by author’s contracts and shall be transferred by succession.

## **Article 29. Transfer of copyright by succession**

1. Copyright shall be transmissible by succession under the Law or by testamentary disposition.

None of moral rights of author stipulated in Article 14 of this Law shall be transmissible by succession. Author's heirs may exercise protection of moral rights. These authorities of heirs shall not be limited with a time.

2. Author shall have right to indicate the person to whom he entrusts the protection of moral rights. Such person shall exercise his authorities throughout his lifetime.

In case an author has no such instruction on protection of the moral rights, protection of his moral rights after his death shall be exercised by his heirs, or if he doesn't have heirs or if duration of his copyright has expired, by the relevant executive body of the Republic of Azerbaijan acting in the field of copyright.

## **Article 30. Assignment of rights by author's contracts**

1. Economic rights stipulated in Article 15 of this Law may be assigned by authors and other copyright owners on the basis of author's contract.

The right to use a work shall be assigned to other persons on the basis of an author's contract for the assignment of the exclusive right to use the work (exclusive license) or on the basis of an author's contract for the assignment of a non-exclusive right to use the work(non-exclusive license).

2. Under the author's contract for the assignment of the exclusive right to use the work (exclusive license), the author or other copyright owners shall assign the right to use the work in a certain manner and within the prescribed scope only to one person to which these rights are assigned, and shall authorize this person to permit or prohibit similar use of the work by other persons.

3. Under the author's contract for the assignment of the non-exclusive right to use the work (non-exclusive license) the author or other copyright owners shall permit user equal using conditions with other users those obtained permission to use work in same method.

4. Unless otherwise stipulated in the contract, the rights assigned by author's contract shall be deemed non-exclusive rights.

5. The state duty established by the legislation shall be paid for registration of the author's contract in whole or in partial assignment of works, related rights objects, and the rights on use (property rights) thereof.

### **Article 31. Conditions and forms of author's contract**

1. Following conditions shall be stipulated in author's contract:

- Methods of use of work (the concrete rights assigned under the contract),
- Duration and territory of assigned rights;
- Procedures of calculation of remuneration's amount and (or) remuneration's amount for each type of use of work;
- Procedures and period of payment, as well as other conditions that are considered essential by parties.

If the author's contract does not specify the modes of use of the work (the specific rights assigned by the contract), contract shall be considered signed for modes of use, which are necessary for achievement the purpose of parties, available for the time of conclusion.

If the author's contract does not specify the period for which the rights are assigned, the author may terminate it on the expiration of a period of five years, following its conclusion, subject to six months beforehand notifying the user in written form.

If the author's contract does not include any condition about territory, the rights concerned by the contract shall have effect only in the territory of the Republic of Azerbaijan.

2. The author's remuneration shall be stipulated in author's contract as percentages of the income derived from the use of work by relevant method or as fixed amount (if it is impossible to determine income because of nature or using features of a work), or otherwise.

3. Conditions of author's contract that limit author's opportunity to create a work in certain topic or certain field and that are contrary to the provisions of this Law shall be invalid.

4. The author's contract shall be concluded in written form.



## **SECTION III**

### **RELATED RIGHTS**

#### **Article 32. Subjects of Related Rights**

1. The subjects of related rights are performers, phonograms producers and broadcasting organization. Related rights shall be exercised without prejudice to copyright stipulated in Section II of this Law.

2. A phonogram producer and broadcasting organization shall exercise the rights stipulated in this section within the limit of contract concluded with performer and author of a work recorded to phonogram or transmitted by broadcasting or cablecasting.

3. A performer shall exercise the rights stipulated in this Section without prejudice to copyright of author of performed work.

4. No formalities shall be required for the arising and exercise of related rights. The phonogram producer and (or) performer, in order to give notification of his related rights, can use the related rights protection sign on phonograms, and all specimens thereof or on the packages thereof. This sign shall consist of three elements:

- the encircled Latin letter P: -**Ⓟ**;
- the name of the owner of the related rights;
- the year of first publication of the phonogram.

5. Exclusive right holders to objects of related rights shall be entitled to have them registered during the period that related rights are in the force at relevant executive body of the Republic of Azerbaijan acting in the field of copyright. In this case a certificate on registration of related rights objects shall be granted of which sample is affirmed by relevant executive body.

#### **Article 33. Rights of a performer**

1. The performer shall be granted the following personal (non-property) and property (economic) rights:

- o right of name;

- Right to object to any distortion, mutilation or other modification of a performance, or other derogatory action in relation to it, which would be prejudicial to the honour or reputation of the performer (right of respect);

- Except for the cases stipulated in this Law, the exclusive right to use the performance in any form, including the right to receive remuneration for every kind of use.

2. The exclusive right to use the performance means the right to exercise, to authorize exercise or forbid the following acts:

- a) Public communication of unfixed performance by broadcasting or cablecasting, if the performance used for such communication has not been broadcasted before;

- b) the fixation of their unfixed performances;

- c) reproduction of fixed performance directly or indirectly;

- ç) broadcasting or cablecasting of initial fixed performance without commercial purpose;

- d) distribution of original or specimens of performance fixed on a phonogram through first sale or other title transfer. If the original or specimens of performance fixed on phonogram are lawfully put into civil circulation through first sale or other title transfer of economic right, further distribution thereof shall be permitted without consent of performer and without paying remuneration within the territory of country;

- e) rental of original or specimens of the performance fixed on phonogram even after they have been distributed with consent of performer, irrespective of property right to original and specimens;

- ə) communication to the public of the performance fixed on phonogram for interactive use (interactive public communication)

3. Authorities stipulated in 2<sup>nd</sup> paragraph of this Article shall be implemented on the base of written contract concluded between performer (if the performance is performed collectively then the head of collective) and user.

4. Conclusion of contract between performer and broadcasting organization for communication to the public of performance through broadcasting or cablecasting and for public communication of his live performance – if this is directly stipulated in the contract concluded between user and broadcasting organization – shall mean assignment of rights indicated in a, b, and c subparagraphs of second paragraph of this article by performer. The amount of performer's remuneration for such use shall be determined by contract.

5. Conclusion of contract between performer and producer of audiovisual work for creation of audiovisual work shall mean assignment of rights indicated in second paragraph of this Article by performer. Unless otherwise stipulated in the contract, assignment of such rights by performer shall be limited with the use of audiovisual works. The right for separate use of sounds and images fixed in audiovisual work shall be excluded;

6. Conclusion of contract between performer and phonogram producer for fixation of performance on the phonogram shall mean assignment of rental right of phonogram by performer (4<sup>th</sup> subparagraph of second paragraph of this Article); in this case right of performer to receive remuneration for rental of specimens of that phonogram shall remain in the force.

7. Performer shall have right of name and right of respect with respect to course-of-duty performance. Unless otherwise stipulated in the contract concluded between them, exclusive right to use that performance shall belong to person with whom the performer has labour relations.

8. Exclusive rights of a performer stipulated in paragraph 2 of this Article are transferable to the third parties by contract.

### **Article 34. Rights of a phonogram producer**

1. A phonogram producer, unless otherwise stipulated in this Law, shall have exclusive right for any use of phonogram including the right to receive remuneration for any use of phonogram.

2. Exclusive right to use phonogram shall mean to exercise, authorize or forbid the following acts:

a) reproduction of the phonogram directly and indirectly;

b) altering or remaking of phonogram in other way;

c) distribution of original or specimens of the phonogram through sale or other title transfer of property right. If the specimens of lawfully published (produced) phonogram are put into civil circulation through first sale or other title transfer of property right, further distribution thereof shall be permitted without consent of phonogram producer and without paying remuneration within the territory of country;

d) importation of specimens of phonograms including specimens produced with permission of phonogram producer with the purpose of distribution;

e) rental of original or specimens of the phonogram even after they have been distributed with consent of phonogram producer, irrespective of property right to original and specimens;

f) communication to the public of the phonogram for interactive use (interactive public communication)

3. Exclusive rights of a phonogram producers stipulated in paragraph 2 of this Article are transferable to the third parties by contract.

### **Article 35. Rights of a broadcasting organization**

A broadcasting organization shall have exclusive right to use a program in any form including the right to receive remuneration for any use of program.

Exclusive right to use program of broadcasting organization shall mean to exercise, authorize exercise or forbid following acts by broadcasting or cablecasting organization:

- fixation of the program;
- reproduction of fixed program;
- the simultaneous broadcasting or cablecasting of the program by another broadcasting organization for public communication;
- the public communication of the program by cable;
- the public communication of the program in places where a charge is made for admission.
- distribution of program's fixation.

### **Article 36. Limitations of the rights of a performer, a phonogram producer and the broadcasting organization**

1. The limitations stipulated in Article 36-38 of this Law shall be applied to the rights provided for in Article 33-35 of this Law in condition that these limitations do not conflict with a normal exploitation of performances, phonograms, programs of broadcasting organizations and their fixations, as well as scientific, literary and artistic works included therein and do not unjustifiably limit legitimate interests of performer, phonogram producer, broadcasting organization and authors of indicated works.

2. It shall be permissible to use performances, phonograms and programs of broadcasting organizations and fixations thereof without authorization of

performer, phonogram producer and broadcasting organization, and without paying remuneration in following cases:

1) the use of short excerpts as quotations from performances, phonograms and programs of broadcasting organizations to the extent justified by intended purpose for scientific, research, polemical, critical and informational purposes;

2) the use of short excerpts to the extent justified by intended purpose for training or scientific-research purposes in illustration character;

3) including of short excerpts from performances, phonograms and programs of broadcasting organizations in press reviews on current events;

4) in other cases stipulated with provisions of Section II of this Law, with respect to limitations of economic rights of authors of scientific, literary and artistic works.

### **Article 37. Use of phonograms published for commercial purposes**

1. The following shall be permissible without authorization of the producer of a phonogram published for commercial purposes and the performer whose performance has been fixed on the phonogram, but with paying remuneration:

- public performance of the phonogram;
- public communication of the phonogram by broadcasting;
- public communication of the phonogram by cablecasting.

2. The collection, distribution and payment of the remuneration stipulated in paragraph 1 of this Article shall be implemented on the base of contract concluded among organizations managing the rights of phonogram producers and performers collectively (42<sup>nd</sup> Article of this Law).

3. The amount and procedure for paying the remuneration shall be determined by contract concluded between phonogram user or union (association) of such users and organizations managing the rights of phonogram producers and performers collectively. In case parties can not agree, indicated amount and procedure shall be determined by relevant executive body of the Republic of Azerbaijan acting in the field of copyright.

The amount of remuneration shall be determined for each form of use of the phonogram.

### **Article 38. Fixation of performances and programs carried out by broadcasting organizations for short-term use**

It shall be permissible for a broadcasting organization to fix the performance or program and to reproduce that fixation for short-term use without consent of performer, phonogram producer or broadcasting organization on condition that:

- the broadcasting organization has obtained prior authorization for public communication of program by broadcasting of which it wants to fix or reproduce for short-term use;

- fixation and reproduction for short-term use is carried out by broadcasting organization using its own equipment and exclusively for its own programs;

- the short term fixation is destroyed within the period laid down for short-term fixations of literary, scientific and artistic works in accordance with second paragraph of Article 23 of this Law.

### **Article 39. Period of validity for related rights**

1. A performer's rights stipulated in Article 33 of this Law shall be in the force for 50 years since the date of first performance. A performer's moral rights stipulated in Article 29 of this Law shall be protected in perpetuity. The rights of phonogram producer stipulated in Article 34 of this Law shall be protected for 50 years from the first publication of a phonogram or from the date of first fixation thereof if the phonogram is not published within said term.

The rights of the broadcasting (cablecasting) organization stipulated in Article 35 of this Law shall be in the force 50 years since the date of first broadcasting (cablecasting) of the program of that organization.

2. The term of protection of related rights shall be calculated from January 1 of the year following the year in which the protection term stipulated in this Article occurs.

The rights of performer, phonogram producer and broadcasting organization stipulated in this Section shall pass to heirs and legal successors with respect to legal entities within the term stipulated in this article.

3. Term of protection determined by this Law shall be applied to all related rights objects of which term of protection has not expired until this Law enters into force.

## SECTION IV

### THE STATE POLICY AND ADMINISTRATION IN THE FIELD OF COPYRIGHT AND RELATED RIGHTS

**Article 40. The state policy and administration in the field of copyright and related rights.**

The state policy directions in the field of copyright and related rights are the following:

1. Creation of scientific, literary and artistic works, promotion of activities on enhancing nations moral values;
2. Creation of legislative basis exercising and protecting copyright in accordance with progressive international experience;
3. Organizing state administration in the field of copyright and related rights;
4. Protection of authors rights in the territories of other states through development of international relations

Minimum rate of author's remuneration shall be determined by relevant executive body.

The relevant executive body of the Republic of Azerbaijan acting in the field of copyright within its competence shall:

- carry out the state policy and administration in the field of copyright and related rights;
- prepare proposals on improvement of legislation in the field of copyright and related rights;
- control implementation of the legislation on the force in the field of copyright and related rights;
- represent Azerbaijan at international organizations acting in the field of copyright and related rights and organizes cooperation in this area;
- implement the state registration of scientific, literary and artistic works,
- register collective management organizations in accordance with the information received from relevant executive body, and control their activities,
- carry out other functions provided for in legislation.

The relevant executive body of the Republic of Azerbaijan acting in the field of copyright shall be financed at the expense of state budget and other sources provided for in legislation.

#### **Article 41. Establishment of collective management organizations.**

1. When the practical implementation of economic rights of authors and related rights holders is impossible individually (public performance, including through the radio and television; reproduction by means of mechanic, magnetic and other recordings and other cases) collective management organizations may be established in accordance with the relevant legislation. Those organizations shall be appropriately state registered and they shall be granted privileges enjoyed by the cultural organizations.

2. It shall be permissible to set up separate organizations managing certain categories of the economic rights of certain categories of copyright and related rights holders, or organizations managing various economic rights in the interest of various categories of copyright and related rights holders. Such organizations shall be established by authors and related rights holders.

Collective management organizations shall not have the right to carry out commercial activity or to use in any manner the objects of copyright and related rights entrusted to them for management.

The restrictions envisaged by anti-monopoly legislation shall not apply to the activity of such organizations.

The powers to exercise the collective management of economic rights shall be assigned to collective management organizations directly by the copyright and related rights holders voluntarily on the basis of written contracts or by being member of these organizations.

The collective management organizations represent only authors or other owners of the rights who have assigned management of the economic rights to them in accordance with legislation, and can address to court or other organisations for enforcement of their rights.

3. State registered collective management organizations are registered (accreditation) at relevant executive body of the Republic of Azerbaijan acting in the field of copyright.

If the collective management organizations, not fulfilling requirements of the present Law, do not execute written requirements on elimination of infringements of relevant executive body of the Republic of Azerbaijan acting in the field of copyright, this body makes the grounded decision on cancellation of accreditation of this organisation. Relevant executive body of the Republic of Azerbaijan acting in the field of copyright applies to the court



for liquidation of the collective management organizations on which cancellation of accreditation it is made the decision.

#### **Article 42. Functions of collective management organizations**

1. Collective management organizations in accordance with their competence shall implement the following functions:

1) coordinate with the users of objects of copyright and related rights the amount of remuneration and other conditions during conclusion of a contract;

2) grant licenses to the users for the use of rights assigned for management;

3) coordinate with the users remuneration amount in cases when the organization is entitled to collect such remuneration without granting a license (4<sup>th</sup> paragraph of 12<sup>th</sup> Article, 3<sup>rd</sup> paragraph of Article 17 and 1<sup>st</sup> paragraph of Article 37);

4) collect remuneration provided for in licenses and (or) on the grounds stipulated in 3<sup>rd</sup> subparagraph of this paragraph;

5) distribute and pay out collected remuneration to the copyright and (or) related rights holders the rights of whom it manages;

6) perform other legal actions necessary for the protection of the rights managed by the organization;

7) perform other actions in accordance with the competence given by copyright and related rights holders.

2. Collective management organizations are entitled to demand presenting the programs and other properly certified documents about the used works and incomes, and also demand payment of remuneration in determined period.

#### **Article 43. Duties of collective management organizations**

1. Collective management organizations shall implement the following duties:

o distribute collected remuneration among copyright and related rights holders and pay out to legal owners; however the organization shall have the right to deduct from the amount of the remuneration collected, a sum intended to cover expenditure actually incurred by it in the collection, distribution and payment of the remuneration, and also a sum payable to a special fund

established by it for the benefit of the holders of copyright and related rights that it represents, and on the base of their consent and interests;

- distribute the remuneration collected, after deduction of the sums referred to in subparagraph 1 of this paragraph, according to actual use of the works and related rights objects and regular payment thereof;
- together with payment of remuneration, providing copyright and related rights holders with the information on use of their rights;
- transferring annual payment to the account of the relevant executive body acting in the field of copyright at a rate determined by this body.

2. Copyright and related rights holders who did not assign the powers to manage their rights to collective management organizations including collection of remuneration, shall have the right to demand the payment of such remuneration for use of their works and related rights objects (Article 42, 4<sup>th</sup> subparagraph of 1<sup>st</sup> paragraph), as well as to demand withdrawal of their works and related rights objects from the licence issued by this organization.

3. Collective management organization shall provide the relevant executive body acting in the field of copyright with the following information:

- 1) amendments to the organization's charter, decisions on the sum of remuneration and allocations;
- 2) conclusion by the organization of agreements with other collective management organizations, including foreign ones;
- 3) annual balance sheet, annual report and audit results;
- 4) the persons authorized to represent these organizations persons;
- 5) other documents, which are necessary for checking conformity of activities of such organisation with this Law, other legislative acts and with its charter.

## SECTION V

### ENFORCEMENT OF COPYRIGHT AND RELATED RIGHTS

#### **Article 44. Enforcement of copyright and related rights. Pirated copies of works and phonograms.**

1. Copyright and related rights holders, also competent state bodies and collective management organizations shall have the right to demand ceasing of actions infringing or posing a threat of infringement of copyright and related rights.

2. Copies of a work or a phonogram, of which production (preparation) or distribution causes infringement of copyright or related rights shall be considered pirated copies.

Copies of works or phonograms protected under this Law that are imported into the Republic of Azerbaijan without the consent of the holder of the copyright and related rights from a state in which the said works or phonograms have never been protected or the terms of protection have expired shall be also considered pirated copies.

3. Following actions shall be forbidden with respect to works and phonograms:

a) The actions directed on elimination of restrictions, established by means of technical protection, for use of works and phonograms without the permission of the author (or other owner of the right) and the right holder of phonogram;

b) The services directed on manufacture, distribution, rental, temporary use, importation, advertising, use for the purpose of extraction of benefit of any means of technical protection and their parts of works and phonograms, or doing impossible application of means of technical protection or directed on maintenance of necessary protection of these rights with means.

Altering or eliminating the right management information without the permission of right holder shall also be considered infringement.

## **Article 45. Enforcement means (methods) of copyright and related rights**

1. Copyright and related rights owners may apply to the court for enforcement of their rights

2. A court while hearing the cases related to copyright and related rights, besides the general means of civil-legal enforcement, shall have the right to issue a resolution on the followings:

- 1) Collection of incomes from infringer resulting from infringement of copyright and related rights in lieu of damage reimbursement;
- 2) The payment of compensation in an amount from 110 manats to 55.000 manats, in lieu of damage reimbursement or income collection;
- 3) Taking into account heaviness of infringement and legal interests of other persons confiscation of materials and equipments used for reproduction or production of pirated copies in accordance with court resolution;
- 4) Without paying compensation to infringer party confiscation or destruction of pirated copies.

3. The actions directed to mastering of technical protection means of copyright and the related rights objects, by direct intervention or indirectly, involve the responsibility provided by the legislation for a copyright and the related rights infringement

4. If the fact of infringement is proven the court shall have the authority to order the infringer to pay the right holder reasonable expenses including attorney's fees. The court also shall have the authority to order the infringer to pay the author (other right holder) compensation, irrespective of awareness of the infringer.

5. The author or the owner of the related rights shall have the right to demand from the infringer, payments together with compensation also the remuneration which he could receive during normal use of his work or other objects of intellectual property.

## **Article 46. Enforcement of infringed copyright and related rights.**

1. In case relevant executive body of the Republic of Azerbaijan acting in the field of copyright, lodges claim for enforcement of copyright and related rights, it shall not pay a state duty;

2. For enforcement of infringed copyright and related rights, competent persons and bodies shall take necessary measures in accordance with legislative acts of the Republic of Azerbaijan;

3. Procedures concerning the civil-legal enforcement of copyright and related rights shall be fair and equitable; they shall not entail unreasonable time-limits or unwarranted delays and shall be implemented in accordance with civil-procedural legislation of the Republic of Azerbaijan.

#### **Article 47. The responsibility for infringement of the Law**

Infringements of copyright and related rights, provided for in this Law shall cause civil, administrative and criminal responsibilities in accordance with the legislation of the Republic of Azerbaijan.

#### **II. This Law shall take effect on the day of its publication.**

*President of the Republic of Azerbaijan  
Heydar Aliyev*

*Baku city, June 5, 1996  
No115-IQ*

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