

On Copyright and Adjacent Rights

Law of the Republic of Belarus

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Section 1. General Provisions

Article 1. Subject of Regulation of the Law

The present Law regulates relations arising in connection with establishment and use of works of science, literature and art (copyright), performances, sound tracks, broadcasts of organisations of air or cable broadcasting (adjacent rights).

Article 2. Legislation of the Republic of Belarus on Copyright and Adjacent Rights

Legislation of the Republic of Belarus on copyright and adjacent rights consists of provisions of the Constitution of the Republic of Belarus, Civil Code of the Republic of Belarus, the present Law, decrees and edicts of the President and other acts of legislation.

Article 3. International Treaties

If an international treaty to which the Republic of Belarus is a participant establishes other rules than those contained in the present Law, the rules of the international treaty shall apply.

Article 4. Basic Notions

For the purposes of the present Law the terms given below have the following meanings:

author – an individual, by whose creative labour the work has been created;

audio-visual work – a work consisting of a series of mutually bound images (with or without sound tracking) creating an impression of motion and intended for visual and acoustical (in case of sound tracking) perception; cinematography and other works expressed by means similar to cinematography (TV movies, videofilms and similar works), irrespective of the way of initial or subsequent fixing of them;

database – a compilation of materials, data, information that is presenting, by selection and arrangement of materials, a result of creative activities; the concept of a database does not cover a computer program (software), with the help of which electronic access may be achieved to materials of the database;

reproduction – manufacturing of one or more copies of a work or an object of adjacent rights in any material form, including constant or temporary storage in digital form in an electronic technical means;

record – fixation of sounds and (or) images permitting to fulfill perception of them, reproduction or communication with the help of respective technical devices;

information on managing the rights – any information identifying an author, work, performer, performance by a performer, producer of a sound track, sound track, organisation of air or cable broadcasting, broadcast of an organisation of air or cable broadcasting, owner of any right envisaged by the present Law, or any information about conditions of use of a work, performance, sound track, broadcast of an organisation of air or cable broadcasting and any digits or codes in which such information is presented, when any of these pieces of information is attached to a copy of a work, recorded performance, sound track, recorded broadcast of an organisation of air or cable broadcasting, or appears in connection with a message for universal knowledge of the work recorded performance, sound track, broadcast of organisation of air or cable broadcasting;

performer – an actor, singer, musician, dancer or other person who is performing works of literature, art or amateur arts by means of acting, singing, reading, reciting, playing a musical instrument, dancing, or otherwise;

cartographic works – map, plan, atlas or other works, the main part of which is cartographic image of the Earth, other celestial body or cosmic space;

computer program – an ordered set of commands and data aimed at obtaining of a definite result with the help of a computer, recorded on a material carrier, and also the attached electronic documentation;

amateur arts – works including characteristic elements of traditional artistic heritage (popular fairy tales, folk poetry, folk songs, instrumental folk music, folk dances and plays, artistic forms of national rites and others);

promulgation of a work – an action carried out upon the consent of the author that is doing the work firstly accessible to universal knowledge through its publication, public performance, public demonstration or in any other way;

common property – objects of copyright and adjacent rights, the ownership rights on which have terminated or were missing;

publication – proposal to audience upon consent of the author or other owner of copyright or adjacent rights of copies of work or sound track in quantities satisfying reasonable demands of the audience, by means of sale, lease or other delivery of the right of ownership or possession by a copy of the work or sound track;

putting on the air (air broadcasting) – communication of a work, performance, sound track or broadcast of organisation of air or cable broadcasting for universal knowledge by means of wireless broadcasting, including satellite data broadcasting; broadcasting of encoded signals is considered to be putting on the air if means of decoding are afforded to the audience by the organisation of air broadcasting or upon its consent;

broadcast of organisation of air or cable broadcasting – a broadcast created by the organisation of air or cable broadcasting itself, and also by its order and at the expense of its assets – by another organisation;

work of a decorative-applied art – a work of art transferred to an Article of practical use, including works of artistic trade, or a work made by an industrial way;

producer of audio-visual work – an individual or a legal entity who has taken on the initiative and responsibility for creation of such work; unless otherwise proved, the producer of an audio-visual work is the person, whose name or title is indicated on this work;

producer of a sound track – an individual or a legal entity who has taken on the initiative and responsibility for the first sound recording of a performance or other sounds; unless otherwise proved, the producer of a sound track is the person, whose name or title is indicated on this sound track;

lease – presentation to the audience of the original or copies of the work or the object of adjacent rights into temporary use with commercial objectives;

public performance – performance of a work by means of recitation, playing, dance or otherwise, including with the help of technical means (in relation to an audio-visual work – display of frames in their sequence with sound tracking) in places where persons are present or may be present not belonging to the customary circle of the family or to close acquaintances of the family;

public display (demonstration) – a display of the original or a copy of the work directly or as a slide, film-, teleframe on the screen, with the help of any other technical means or otherwise (concerning an audio-visual work – display of separate frames outside of sequence of them) in places where persons are present or may be present not belonging to the customary circle of the family or to close acquaintances of the family;

copying – facsimile reproduction in any size and form of one or more copies of the originals, or copies of written and other graphic works by means of photocopying or with the help of any other technical means, except for publication; copying is not storage or reproduction of the above copies in electronic, optical or other machine-readable form;

communication for universal knowledge – broadcasting by wire or by means of wireless transmission of images or sounds, or images and sounds of a work, performance, sound track, broadcast of organisation of air or cable broadcasting in such a manner that the images or the sounds become accessible to perception by persons not belonging to the customary circle of the family or to close acquaintances of the family, in places so distant from the place of broadcasting, that without broadcasting such images or sounds would not be accessible for perception; communication of a work for universal knowledge is also bringing the work to universal knowledge in such a manner that representatives of the audience may execute access to the work from any place and at any time on their own choice;

technical means – any device, article or component being a constituent of the method, device or article intended for preventing of violation or an obstacle to violation of any copyright or any adjacent rights, presented by the present Law;

sound track – any exclusively sound recording of performances or other sounds or images of sounds; a sound track is not a record of sounds included into an audio-visual work;

copy of a work – a copy of a work manufactured in any material form;

copy of a sound track – a copy of a sound track on any material carrier manufactured directly or indirectly from a sound track and including all or a part of sounds fixed in this sound track.

Section 2. Copyright

Chapter 1. Objects of Copyright

Article 5. Scope of Copyright

1. Copyright covers, pursuant to the present Law, works of science, literature and art, both promulgated, and not, expressed in any objective form, irrespective of purpose and advantage of the work, except for those listed in Article 8 of the present Law.

2. Provisions of the present Law are applied to:

the works, the authors of which are citizens of the Republic of Belarus or permanently live in the territory of the Republic of Belarus, irrespective of a place of the first publication of these works;

the works firstly published or located in the territory of the Republic of Belarus, irrespective of citizenship or permanent residence of their authors;

other works protected in the territory of the Republic of Belarus pursuant to the international treaties of the Republic of Belarus.

3. A work shall be also considered firstly published in the territory of the Republic of Belarus if within 30 days after the date of its first publication outside the borders of the Republic of Belarus it was published also in the territory of the Republic of Belarus.

Article 6. Objects of Copyright

1. Copyright covers the works of science, literature and arts existent in any objective form:

written (manuscript, typewriting, musical notation);

electronic (computer program, electronic database);

sound or video record (magnetic, optical, electronic);

images (picture, figure, film-, TV-, video-, photoframe);

volumetric-spatial (sculpture, model, construction).

2. Part of the work (including its title), that has the features indicated in clause 1 of the present Article, and can be used independently, is an object of copyright.

3. Copyright on a work is not connected with the right of ownership on the material object in which the work is expressed.

Delivery of the right of ownership or the right of possession of some material object does not entail in itself delivery of copyright on the work expressed in this object.

Article 7. Works Being Objects of Copyright

1. Objects of copyright are:

literature works (including computer programs and databases);

scientific works (articles, monographs, reports);

drama and musical-drama works, script works;

choreographic works and pantomimes;

musical works with or without text;

audio-visual works;

works of painting, graphic art, sculptures and other works of fine art;

works of decorative-applied art;

works of architecture, urban planning and garden-and-park art;

photographic works;

maps, layouts, sketches and other works relating the architecture, geography, geodesy, cartography, other sciences and engineering;

other works.

2. The following also refers to objects of copyright:

derivative works such as translations, arrangements, staging, musical arrangements, reviews, summaries, abstracts;

collections of works, such as encyclopaedias, anthologies, atlases and other compound works representing a result of creative activity by selection and arrangement of materials.

Derivative works and collections of works shall be protected by copyright irrespective of the fact whether the work on which they are based or which they include are objects of copyright.

3. Computer programs are protected like literature works, and such protection covers all kinds of programs, including application programs and operating systems, which may be expressed in any language and in any form, including the source text and the object code.

Databases or compilations of other materials in any form representing a result of intellectual creativity by selection and arrangement of materials are protected as such. Such protection does not cover directly the data or materials and acts without any damage to any copyright, to which scope such data or materials refer.

Article 8. Works that are not Objects of Copyright

1. Shall not be objects of copyright:

formal documents (laws, judgements, other texts of legal, administrative and judicial nature), and also their official translations;

state symbols and signs (flag, coat of arms, anthem, awards, banknotes and other signs);

works of folk arts, authors of which are not known.

2. Copyright does not cover ideas, processes, systems, methods of operation, concepts, principles, discoveries or simply information as such, even if they are expressed, reflected, explained or embodied in the work.

Article 9. Originating of Copyright

1. Copyright on works of science, literature and art arises by virtue of the fact of their creation. For originating and execution of copyright observance of no formalities is necessary.

2. For notification about his/her exclusive rights of ownership, the owner of them has the right to use a protection sign of copyright to be placed on each copy of the work and to include the following three compulsory elements:

the Latin letter "C" in a circumference: ©;

title (name) of the owner of exclusive ownership rights;

year of the first publication of the work.

3. Unless otherwise proved, the author of the work is considered to be the person indicated as the author on the original or on a copy of the work (presumption of the owner of copyright).

4. In case a work is published anonymously or under a pseudonym (except for the case when the pseudonym of the author leaves no doubt in his/her person), the publisher whose name or title is indicated on the work, unless otherwise proved, shall be considered a representative of the author pursuant to the present Law, and in this quality has the right to defend the rights of the author and to ensure execution of them.

The present provision will remain valid so long as the author of such work does not disclose his/her person and does not claim his/her authorship on the work.

Article 10. Co-Authorship

1. Copyright on a work created by joint creative activities of two or more persons (co-authorship) shall belong to the co-authors jointly, irrespective of the fact whether such work forms a single integral unit and consists of the parts, each of which has independent value.

A part of the work shall be considered as having an independent value, if it may be used independent of other parts of this work.

Each of co-authors shall have the right to use the part created by him/her and having independent value at his/her own discretion, unless otherwise stipulated by an agreement between them.

2. The right to use the work as a whole shall belong to the co-authors jointly.

Relationships of co-authors may be determined by an agreement between them.

If the work of the co-authors makes a single integral unit, neither of the co-authors shall be entitled to ban the use of the work without sufficient grounds.

Article 11. Copyright on Compound Works

1. The author of a collection and other compound works (compiler) shall possess copyright on selection and arrangement of materials that are a result of creative work (compilation).

The compiler uses his/her copyright under condition of observance by him/her of the rights of the authors of each of the works included into the compound work.

Authors of the works included into a compound work may use their works irrespective of the compound work, unless otherwise stipulated by the copyright agreement.

Copyright of the compiler does not prevent other persons from execution of independent selection and arrangement of the same materials for creation of their compound works.

2. A person publishing encyclopaedias, encyclopaedic dictionaries, periodic and continuing collections of scientific works, newspapers, magazines and other periodicals, shall possess exclusive rights to use such editions as a whole. This person may indicate, at any use of such editions, his/her name, or demand such indication to be made.

Authors of the works included into such editions shall preserve exclusive rights to use their works irrespective of the edition as a whole, unless otherwise stipulated by the copyright agreement.

Article 12. Copyright on Derivative Works

1. Translators and authors of other derivative works shall possess copyright on the translation, staging, arrangement or other remaking under the condition of observance by them of the rights of the author of the work.

2. Copyright of a translator and of authors of other derivative works does not prevent other persons from making their translations and remaking of the same works.

Article 13. Copyright on Audio-visual Products

1. The authors of the audio-visual work are the producer-stager, author of the script, author of the piece of music specifically created for the audio-visual work, with or without the text.

2. Conclusion of the agreement on creation of an audio-visual work entails delivery by the authors of this work to the producer of the audio-visual work of exclusive rights on reproduction, propagation, public performance, communication for universal knowledge of the audio-visual work, and also subtitling and dubbing of the text of the audio-visual work,

unless otherwise stipulated by the agreement. The above rights act during the validity period of the copyright on the audio-visual work.

The producer of the audio-visual work may, at any use of this work, indicate his/her name or title on it or to demand such indication to be made.

3. The author of a piece of music with or without the text shall preserve his/her right for remuneration for public performance of his/her musical work at use of the audio-visual work including the given piece of music.

4. Authors of previously existing works included into an audio-visual work or reworked for an audio-visual work, shall preserve copyright on their works and may use them separately from the audio-visual work.

Article 14. Copyright on Service Works

1. Personal non-ownership rights on a work created in the order of performing of a service task or of the official duties (a service work) shall belong to the author.

2. Ownership rights on a service work shall belong to the employer, unless otherwise stipulated by an agreement between the employer and the author.

3. The author of a service work has no right to prevent the employer from its promulgation.

Chapter 2. Author's Rights

Article 15. Personal Non-Ownership Rights

1. The author in relation to his/her work possesses the following personal non-ownership rights:

the right to be recognize as the author of the work (the right of authorship);

the right to use or to allow to use the work under the genuine name of the author, pseudonym or without identification of a name, that is anonymously (the right for the name);

the right to protect the work, including its title, against any distorting or other invasion which is able to cause damage to the honour and dignity of the author (the right of defence of reputation);

the right to promulgate or to allow to promulgate the work in any form (the right of promulgation).

2. The author has the right to refuse from the earlier decision about promulgation of the work (the right of recall) under condition of indemnification to the user of the losses caused by such decision, including the missed profit. If the work has already been promulgated, the author is obliged to announce publicly its recall. In this event he/she may withdraw at his/her account from the civil circulation the earlier produced copies of the work. For the works created in the order of fulfilment of a service task, the provisions of the present clause are not applied.

3. The personal non-ownership rights shall belong to the author irrespective of his/her ownership rights and are preserved with him/her even after assignment of exclusive ownership rights on use of the work.

Article 16. Ownership Rights

1. The author in relation to his/her work, or any other owner of copyright shall possess the exclusive right to execute or to allow to execute the following actions:

reproduction of the work;

propagation of the original or copies of the work by means of sale or other delivery of the ownership right; if the original or copies of the legally published work have been introduced, upon the author's permit, into the civil circulation through sale or other delivery of ownership right, further distribution of them in the territory of the Republic of Belarus shall be allowed without consent of the author (the right owner) and without payment of any reward;

lease of the originals or copies of computer programs, databases, audio-visual works, notation texts of pieces of music and works embodied into sound tracks, irrespective of belonging of the right of ownership on the original or copies of the above works; the given right is not applied concerning computer programs, if a program is not the main object of lease, and concerning audio-visual works, if only lease of them does not result in broad copying of such works causing essential damage to the exclusive right on reproduction;

import of copies of the work, including copies manufactured upon sanction of the author or other owner of the copyright;

public display (demonstration) of the original or of a copy of the work;

public performance of the work;

broadcasting of the work to the air;

other communication of the work for universal knowledge;

translation of the work into another language;

alteration or other rework of the work.

2. The author of the adopted architectural project has the right to demand from the customer of provision of the right of participation in execution of the project at drawing up documentation for construction and during construction of the building or structure, unless otherwise stipulated by the agreement.

3. The author has the right for award for each kind of use of the work.

4. The limitations of the rights of the authors (of other right-owners), indicated in the present Article, are established by Articles 18-21 of the present Law, and are applied provided that the limitations do not cause ungrounded damage to normal use of the work and do not groundlessly restrain legitimate interests of the author (of other right-owner).

Article 17. Right of Succession

In each case of public resale of the work of fine art, originals of manuscripts of writers and composers (through auction, gallery of fine art, art saloon, shop, etc.) the author has the right to receive a reward from the vendor at a rate of five percent of the pre-sale price (the right of succession).

The above right is inalienable and passes only to the heirs of the author under the law or under the last will for the validity period of the copyright.

Chapter 3. Limitations of Ownership Rights

Article 18. Reproduction of the Work for Personal Purposes

1. In exception from provisions of Article 16 of the present Law and under condition of observance of provisions of clauses 3, 4 and 5 of the present Article, it is allowed to reproduce, without the permit of the author (other right-owner) and without payment of any reward, legally published works in single copies by an individual exclusively in personal purposes.

2. Clause 1 of the present Article is not applied to reproduction of the following:

works of architecture in the form of buildings or other structures;

databases or essential parts of them;

computer programs, except for cases envisaged by Article 21 of the present Law;

notation texts and books (completely) through copying.

3. For reproduction of audio-visual works and works embodied in sound tracks, the author (other right-owner), and also performers and producers of sound tracks (their assignees) have the right to receive the reward.

The reward is paid by:

manufacturers of the equipment (audio- and videotape recorders and other equipment) and material carriers (films, cassettes, laser disks, compact discs and other material carriers), usually used for reproduction of works in personal purposes, except for the equipment and material carriers exported abroad, and

importers of the above equipment and material carriers, except for cases when the import is executed by a private person in his/her personal purposes.

4. Collection of the above reward shall be executed by the organisation for collective control of ownership rights. At absence of the agreement between representatives of the manufacturers and importers indicated above in clause 3, on the one hand, and the organisation for collective control of ownership rights, on the other hand, the size of the above reward and the conditions of payment of it are determined by the Council of Ministers of the Republic of Belarus.

5. The organisation for collective control of ownership rights shall distribute the reward between the authors (other right-owners) of the works indicated above in clause 3 of the

present Article and performers and producers of sound tracks indicated above in clause 2 of Article 36 of the present Law, in relation to which it is possible to suppose that they were reproduced for personal purposes pursuant to clause 1 of the present Article. At absence of the agreement between different groups of authors (other right-owners) and (or) performers and producers of sound tracks (their assignees) concerning proportion of distribution of the reward due to them, such proportion is determined by the Council of Ministers of the Republic of Belarus.

Article 19. Use of the Work without Author's Consent and without Payment of Reward

The following is allowed without consent of the author and without payment of the reward, but with mandatory indication of the author of the work and source of borrowing:

quoting in scientific, research, educational, polemic, critical and information purposes of fragments from legally published works in the volume justified with the purpose of quoting;

use of fragments from legally published works as illustrations in editions, radio- and TV-programs, audio and video recordings of educational nature in the volume justified by the aim put forward;

reproduction in newspapers, communication for universal knowledge of legally published in newspapers and magazines articles on current economical, political, social and other problems in cases when such reproduction, communication for universal knowledge have not been deliberately prohibited by the author;

reproduction in newspapers, communication for universal knowledge of publicly made speeches, appeals, reports and other similar works in the volume justified by the information purpose;

reproduction or communication for universal knowledge in reviews of current events of the works seen or heard during such events in the volume justified by the information purpose;

reproduction of legally promulgated works by a relief-dot font or other special ways for the blind, except for the works specially created for such ways of reproduction;

reproduction or communication for universal knowledge of works of architecture, fine art, photos, which are permanently located in a place opened for free visiting, except for cases when an image of the work is the main object of such reproduction or communication for universal knowledge or when it is used for commercial objectives;

reproduction of a legally promulgated work for judicial or administrative proceedings;

performance of legally promulgated works at rendering ritual services, in this case indicating of the author and source of borrowing is not binding.

Article 20. Copying of Works by Libraries, Archives and Educational Institutions

It is allowed, without the consent of the author or other owner of copyright and without payment of the reward, but with the mandatory indication of the author of the work and source of borrowing, to copy in a single copy without commercialization:

by libraries or archives – legally published works for replacement of the lost, destroyed or unfit for use copies;

by libraries or archives on requests of individuals in educational and research purposes – separate articles and small-size works legally published in collections, newspapers and other periodicals, fragments from legally published written works;

by educational institutions for educational lessons – separate articles and small-size works legally published in collections, newspapers and other periodicals, fragments from legally published written works.

Article 21. Reproduction of Computer Programs

1. A person legally owning a copy of a computer program has the right to make a copy of the computer program provided that this copy is intended only for archive purposes or for replacement of the legally acquired copy in cases when the original of the computer program has been lost, erased or became unsuitable for use. In this case the copy of the computer program cannot be used for other purposes and must be destroyed in case possession of the copy of this computer program ceases to be valid.

2. A person legally owning a copy of a computer program has the right to adapt the computer program for ensuring joint operation with other programs provided that the information, obtained at adapting, will not be used for creation of other computer programs similar to the adapted one, or for execution of any other action violating the copyright.

Chapter 4. Validity Period of Copyright

Article 22. Protection Period of Copyright

1. The right of authorship, right of the name and right of protection of reputation of the author are protected termlessly.

The ownership rights remain valid during the whole life of the author and 50 years after his/her death, except for cases envisaged by the present Article.

2. Concerning an anonymous work or a work under the pseudonym the protection period makes 50 years after the moment of the first legal publication of the work.

At absence of legal publication within 50 years after the moment of creation of such work, the protection period makes 50 years after the moment of the first bringing of the work to universal knowledge upon the consent of the author in the form other than publication.

At absence of the above valid publication and any other bringing of the work to universal knowledge upon consent of the author within 50 years after the moment of creation of such work, the protection period makes 50 years after the moment of creation of the work.

If during the above period the author of an anonymous work or works under a pseudonym discloses his/her person, or his/her person does not leave any further doubts, clause 1 of the present Article shall be applied.

3. The ownership rights on a work created in co-authorship, shall act during the whole life and 50 years after the death of the last author who has survived over other co-authors.

4. Calculation of the periods envisaged by the present Article shall start from January 1 of the year following the year, in which the juridical fact took place being the basis for beginning to calculate the period.

Article 23. Common Property

1. Expiration of operation period of ownership rights on objects of copyright or adjacent rights means transition of these objects into common property.

Objects of copyright or adjacent rights never protected in the territory of the Republic of Belarus are also considered as transitioned into common property.

2. Objects of copyright or adjacent rights transitioned into common property may be freely used by any individual or legal entity without payment of any reward. In this case personal non-ownership rights must be observed.

3. The Council of Ministers of the Republic of Belarus may establish cases and order of payment of deductions for use in the territory of the Republic of Belarus of objects of copyright or adjacent rights transitioned into common property.

Article 24. Transition of Copyright by Right of Succession

1. The copyright shall pass by right of succession. The right of authorship, right of the name and right of defence of reputation of the author do not pass by right of succession. Heirs of the author and executors of the will shall have the right to execute protection of the above rights. These legal powers of the heirs and executors of the will are not limited in time.

At absence of heirs of the author, protection of the above rights shall be executed by the duly authorized state body of the Republic of Belarus.

2. The author has the right, in the same order by which the executor of the will is assigned, to appoint a person to whom he/she imposes protection of his/her personal non-ownership rights after his/her death. This person shall execute his/her authorities till the end of his/her life.

At absence of such appointments, protection of personal non-ownership rights of the author after his/her death shall be executed by his/her heirs or by the duly authorized state body of the Republic of Belarus who is executing such protection if there are no heirs.

Chapter 5. Delivery of Ownership Rights

Article 25. Delivery of Ownership Rights. Author's Agreement

1. The ownership rights of the author may be conceded completely or in a part and may be delivered for use under the author's agreement.

Any concession of ownership rights must be made out by a written agreement signed by the author and by the person (right-owner), to whom the ownership rights are conceded. Conceded are considered only those rights that are clearly indicated in the agreement. The

rights of use of the work that was not known at the moment of conclusion of the agreement cannot be conceded.

2. The author's agreement about delivery of exclusive ownership rights allows use of the work in a definite way and within the limits established by the agreement only to the person to whom these rights are delivered, and gives such person the right to prohibit similar use of the work to other persons.

The right to prohibit to other persons use of the work may be implemented by the author of the work, if the person, to whom exclusive authorities have been delivered, does not protect this right.

3. The author's agreement about delivery of non-exclusive ownership rights allows the user to use the work on equal with the owner of ownership rights who has delivered such rights, and (or) by other persons who received the permit to use this work in the same way.

Article 26. Contents of the Author's Agreement

1. The author's agreement must envisage the ways of use of the work (particular rights delivered under the given agreement); the period for which the right is delivered, and the territory over which operation of the right is valid for the above period; the rate of reward and (or) order of definition of the rate of reward for each way of use of the work, the order and periods of payment of it, and also other conditions, which the Parties find necessary.

At absence in the author's agreement of a provision about the period of delivery of the rights, the agreement may be terminated by the author on expiration of five years after the date of its conclusion, if the user is notified in writing of the fact months prior to termination of the agreement.

At absence in the author's agreement of a provision about the territory, over which the operation of the right is spread for the above period, the operation of the right, delivered under the agreement, shall be limited by the territory of the Republic of Belarus.

2. The size and order of charging of the reward for use of works of literature, science and art are established in authors' agreements and (or) in agreements on the right of use of works, which users are obliged to conclude with other right-owners or with organisations controlling the ownership rights of the authors.

3. The reward is determined in the author's agreement as percentage from the income for the respective way of use of the work, or as a fixed sum, or otherwise. In this case, the rates of the author's reward cannot be lower than the minimum rates established by the Council of Ministers of the Republic of Belarus.

If in the author's agreement on publication or other reproduction of the work the reward is determined as a fixed sum, the agreement must establish the maximum circulation of the copies of the work.

4. The rights delivered under the author's agreement may be delivered completely or partially to other persons only in case it is directly stipulated by the agreement.

5. The provision of the author's agreement limiting the author in creation in future of other works on the given subject or in the given area shall be invalidated.

6. Any condition of the author's agreement contradicting to provisions of the present Law shall be invalidated.

Article 27. Form of the Author's Agreement

1. The author's agreement must be concluded in writing. The author's agreement about use of the work in a periodical press may be concluded in the oral form.
2. At sale of copies of computer programs and databases, the agreement is considered concluded in writing, if its conditions (condition of use of the program and database) are set up in the appropriate way on the copies of the program or database.

Article 28. Liability under the Agreement

In case of a breach of obligations under the agreement, the defaulting Party bears responsibility pursuant to the legislation of the Republic of Belarus.

Section 3. Adjacent Rights

Article 29. Subjects of Adjacent Rights

1. Subjects of adjacent rights are performers, producers of sound tracks, organisations of air or cable broadcasting.
2. The performer executes the rights indicated in the present section under the condition of observance of the rights of the author of the executed work.
3. The producer of a sound track, organisation of air or cable broadcasting executes the rights indicated in the present section, within the limits of the rights obtained under the agreement with the performer and the author of the work recorded or put on the air or through the cable network.
4. Observance of no formalities is needed for originating and execution of the rights envisaged by the present section. The performer and producer of a sound track, for notification about the ownership rights, have the right to use the protection sign of adjacent rights to be placed on each copy of a sound track and include the three following elements:

the Latin "P" character in a circumference: ®;

name (title) of the owner of exclusive ownership rights;

year of the first publication of the sound track.

5. At absence of other evidence, the performer or producer of a sound track is considered to be the person indicated above as the owner of exclusive ownership rights on each copy of the sound track (the presumption of the owner of the adjacent rights).

Article 30. Scope of Adjacent Rights

1. Provisions of the present Law about protection of rights of performers shall be applied to:
performers being citizens of the Republic of Belarus;
performers who are not citizens of the Republic of Belarus, but whose performance:
are taking place in the territory of the Republic of Belarus, or
are included into sound tracks protected pursuant to the present Law, or
are not recorded on a sound track, but are contained in broadcasts of organisations of air or cable broadcasting protected pursuant to the present Law.
2. The provisions of the present Law about protection of sound tracks are applied to:
sound tracks, the producers which one are the citizens of the Republic of Belarus or legal entities having an official occurrence in the territory of the Republic of Belarus;
sound tracks, the producers which one are not the citizens of the Republic of Belarus or legal entities having an official occurrence in the territory of the Republic of Belarus, but which one firstly are published in the territory of the Republic of Belarus or are published in the territory of the Republic of Belarus within 30 days from the date of their first publication in any other state.
3. Provisions of the present Law about protection of broadcasts of organisations of air or cable broadcasting are applied to broadcasts of organisations having official residence in the territory of the Republic of Belarus and executing broadcast from transmitters located in the territory of the Republic of Belarus.
4. Provisions of the present Law shall also apply to the performers, producers of sound tracks and organisations of air or cable broadcasting, to whom protection of their rights in the territory of the Republic of Belarus has been provided pursuant to international treaties of the Republic of Belarus.

Article 31. Rights of the Performer

1. The performer, concerning his/her performance, shall possess the following exclusive rights:
the right of the name;
the right for protection of performance against any distortions or any other encroachment capable to cause damage to the honour and dignity of the performer (the right of defence of reputation);
the right to use performance in any form, including the right of obtaining reward for each kind of using the performance.
2. The exclusive right of using the performance means the right to execute or to allow executing the following actions:

to put on the air or to communicate for universal knowledge via a cable of the performance, if the performance used for such broadcast has not been earlier put on the air, or is not executed with use of the record;

to record the earlier not recorded performance;

to play back the recording of the performance;

to put on the air or via cable of the record of the performance, if originally this record was made not for commercial purposes;

to disseminate the original or copies of the performance recorded on a sound track, by means of sale or other delivery of the ownership right;

to deliver into lease the original or copies of the performance, recorded on a sound track;

to communicate for universal knowledge the performance recorded on a sound track, by wire or by means of wireless communication, so that representatives of audience could execute access to it from any place and at any time on their own selection.

3. The exclusive right of the performer envisaged by paragraph four of clause 2 of the present Article, does not cover the cases when:

the initial record of the performance was made with the consent of the performer;

reproduction of the performance is made with the same purposes as the consent of the performer was obtained at recording of the performance;

reproduction of the performance is made with the same purposes as the recording was made pursuant to Article 36 of the present Law.

4. Permits for execution of actions indicated above in clause 2 of the present Article, are given by the performer, and at performance by a collective of performers – by the chief of such collective by means of concluding a written contract with the user.

5. Permits for execution of actions indicated above in paragraphs two, three and four of clause 2 of the present Article, of subsequent broadcasts of the performance, execution of a recording for broadcasting and reproduction of such records by organisations of air or cable broadcasting are not required, if they are stipulated by the agreement of the performer with the organisation of air or cable broadcasting.

The rate of reward to the performer for such use is also established in this agreement.

6. Conclusion of an agreement between the performer and producer of an audio-visual work on creation of the audio-visual work entails granting by the performer to the producer of the rights indicated above in clause 2 of the present Article.

Granting by the performer of such rights is limited by use of the audio-visual work and, unless otherwise stipulated in the agreement, does not comprise the rights of separate use of the sound or image fixed in the audio-visual work.

Article 32. Rights of the Producer of Sound Track

1. The producer of a sound track in relation to his/her sound track possesses exclusive rights to use the sound track in any form, including the right of obtaining reward for each kind of use of the sound track.

2. The exclusive right of using the sound track means the right to execute or to allow executing the following actions:

to play back (directly or indirectly) the sound track;

to rework or remake in any other way the sound track;

to disseminate the original or copies of the sound track by means of sale or other delivery of the ownership right;

to import copies of the sound track with the aims of dissemination, including copies manufactured upon consent of the producer of this sound track;

to hand into lease the original or copies of the sound track;

to communicate to universal knowledge the sound track by wire or by means of wireless communication, so that representatives of audience could execute their access to them from any place and at any time on their own selection.

3. If the copies of legally published sound track have been introduced, upon the consent of the performer and producer of the sound track into civil circulation by means of sale of them or other delivery of the ownership right, it is allowed to execute further dissemination of them in the territory of the Republic of Belarus without the consent of the performer and producer of the sound track and without payment of any reward to them. In this case, the right of lease belongs to the performer and producer of a sound track irrespective of belonging of the right of ownership on the original or copies of the sound track.

Article 33. Use of Sound Track Published with Commercial Purposes

1. In exception from provisions of Articles 31 and 32 of the present Law, it is allowed, without the consent of the producer of the sound track published with commercial purposes, and of the performer whose performance has been recorded on such sound track, but with payment of reward to them:

to make a public performance of the sound track;

to put the sound track on the air;

to make other communication of the sound track for universal knowledge.

For the purposes of the present Article, the sound tracks that have become accessible for universal knowledge by wire or by means of wireless communication in such a way that representatives of the audience may execute access to them from any place and at any time on their own selection, are equated to those published with commercial purposes.

2. Collection, distribution and payment of the reward envisaged by clause 1 of the present Article shall be made by the organisation controlling the ownership rights of the producers of sound tracks and (or) performers.

Article 34. Rights of Organisations of Air Broadcasting

1. Except for the cases envisaged by the present Law, the organisation of air broadcasting in relation to its broadcast shall own exclusive rights to use the broadcast in any form and to authorize use of the broadcast, including the right of obtaining of a reward for granting such authorization.

2. The exclusive right of the organisation of air broadcasting to authorize use of its broadcast means the permit to execute the following actions:

to transmit its broadcast by another organisation of air broadcasting;

to communicate the broadcast for universal knowledge through the cable;

to record the broadcast;

to play back the recording of the broadcast;

to communicate the broadcast for universal knowledge in places with a paid entrance;

to disseminate among the audience recordings of the broadcast or copies of the recording of the broadcast by means of sale, lease or through other delivery of the ownership right; this right, except for the right of lease, ceases in relation to the record of the broadcast or of the copies of the record of the broadcast, which, upon the consent of the organisation of air broadcasting, were introduced into the civil circulation in the territory of the Republic of Belarus by means of sale or other delivery of the ownership right; the right of lease shall be preserved with the organisation of air broadcasting irrespective of the belonging of the right of ownership on the record of the broadcast or on the copies thereof.

3. The exclusive right of the organisation of air broadcasting envisaged by paragraph five of clause 2 of the present Article does not cover the cases, when:

the recording of the broadcast was made upon the consent of the organisation of air broadcasting;

reproduction of the broadcast is executed with the same purposes as its recording was made pursuant to Article 36 of the present Law.

Article 35. Rights of Organisations of Cable Broadcasting

1. Except for the cases envisaged by the present Law, the organisation of cable broadcasting in relation to its broadcast owns exclusive rights to use the broadcast in any form and to authorize the use of the broadcast, including the right of obtaining a reward for granting such authorization.

2. The exclusive right of the organisation of cable broadcasting to authorize use of its broadcast means the permit to execute the following actions:

to transmit its broadcast by another organisation of cable broadcasting;

to communicate the broadcast for universal knowledge through the cable;

to record the broadcast;

to play back the recording of the broadcast;

to communicate the broadcast for universal knowledge in places with a paid entrance;

to disseminate among the audience recordings of the broadcast or copies of the recording of the broadcast by means of sale, lease or through other delivery of the ownership right; this right, except for the right of lease, ceases in relation to the record of the broadcast or of the copies of the record of the broadcast, which, upon the consent of the organisation of cable broadcasting, were introduced into the civil circulation in the territory of the Republic of Belarus by means of sale or other delivery of the ownership right; the right of lease shall be preserved with the organisation of cable broadcasting irrespective of the belonging of the right of ownership on the record of the broadcast or on the copies thereof.

3. The exclusive right of the organisation of cable broadcasting envisaged by paragraph five of clause 2 of the present Article does not cover the cases, when:

the recording of the broadcast was made upon the consent of the organisation of cable broadcasting;

reproduction of the broadcast is executed with the same purposes as its recording was made pursuant to Article 36 of the present Law.

Article 36. Limitations of Rights of Performers, Producers of Sound Tracks, Organisations of Air or Cable Broadcasting

1. It is allowed, without the consent of the performer, producer of the sound track, organisation of air or cable broadcasting and without payment of reward, to use a performance, broadcast of an organisation of air or cable broadcasting and their records, and also to reproduce sound tracks:

for inclusion into reviews of current events of fragments from a performance, sound track, broadcast of organisation of air or cable broadcasting;

exclusively with the aims of training or scientific research;

for quoting in the form of fragments from a performance, sound track, broadcast of organisation of air or cable broadcasting provided that such quoting is executed with the information purposes; in this event, any use by the organisation of air or cable broadcasting of copies of a sound track published with commercial purposes, for their broadcast, is only possible at observance of provisions of Article 33 of the present Law;

in other cases established by the present Law in relation to limitation of ownership rights of authors of works of science, literature and art.

2. It is allowed, without the consent of the performer and producer of a sound track, to an individual to reproduce a sound track exclusively for his/her own purposes.

3. Article 31, 32, 34 and 35 of the present Laws shall not be applied in relation to obtaining of the permit of the performer, producer of a sound track and of an organisation of air broadcasting on execution of recordings of short-time use of a performance or broadcast, on

reproduction of such recordings and on reproduction of the sound track published with commercial purposes, if the recording of short-time use or the reproduction are executed by the organisation of air broadcasting with the help of its own equipment and for its own broadcast under the condition of:

prior receipt by the organisation of air broadcasting of a permit for putting on the air of the performance or broadcast in relation to which, pursuant to provisions of the present clause, the recording of short-time use or reproduction of such record is executed;

its destruction within the limits of the period established for a recording of short-time use of works of literature, science and art made by an organisation of air broadcasting pursuant to Article 37 of the present Law, except for the single copy that may be saved in the archives of this organisation on the basis of its exclusively documentary nature.

4. The limitations envisaged by the present Article, are applied without damage for normal use of a sound track, performance, broadcast of organisation of air or cable broadcasting and their records, and also included into them of works of literature, science and art, and without any infringement with the legitimate interests of the performer, producer of a sound track, organisation of air or cable broadcasting and of the authors of the above works.

Article 37. A record of Short-Time Use Made by Organisations of Air Broadcasting

1. The organisation of air broadcasting may, without the consent of the author and without payment of additional reward, record for short-time use a work, in relation to which this organisation has received the right of putting on the air, provided that such recording is made by the organisation of air broadcasting with the help of its own equipment and for its own broadcasts.

2. The organisation is obliged to destroy such recording within six months after its production, unless a longer period has been agreed with the author of the recorded work. Such recording may be saved, without the consent of the author of the work, in the archives of this organisation, if the record has exclusively documentary nature.

Article 38. Period of Protection of Adjacent Rights

1. Personal non-ownership rights of the performer (right of the name and right of defense of reputation) established by Article 31 of the present Law shall be protected timelessly.

The ownership rights envisaged by the present Law in relation to the performer shall remain valid during 50 years after the moment of the first record of performance.

2. The ownership rights envisaged by the present Law in relation to the producer of a sound track shall remain valid during 50 years after the first publication of the sound track or during 50 years after its first recording, if the sound track was not published during this period.

3. The rights envisaged by the present Law in relation to the organisation of air or cable broadcasting shall remain valid during 50 years after the moment of execution of putting on the air or via the cable, respectively.

4. Calculation of the periods envisaged by clauses 1-3 of the present Article shall start from January 1 of the year following the year, in which the legal fact being the basis for the beginning of calculation of the period took place.

5. The right to allow use of a performance, sound track, broadcast of an organisation of air or cable broadcasting and on obtaining of a reward within the limits of the rest of the periods indicated above in clauses 1-3 of the present Article, shall pass to the heirs (in relation to legal entities – to their successors) of the performer, producer of a sound track, organisation of air or cable broadcasting.

6. The ownership rights of the performer, producer of a sound track, organisation of air or cable broadcasting may be conceded completely or in a part and may be delivered for use under the agreement with applying by analogy of provisions of clause 1 of Article 25 of the present Law.

7. Termination of the operation periods of ownership rights on objects of adjacent rights means transition of these objects into common property.

Section 4. Protection of Copyright and Adjacent Rights

Article 39. Violation of Copyright and Adjacent Rights

1. An individual or legal entity who does not observe the requirements of the present Law is an infringer of the copyright and adjacent rights.

2. Copies of the work, recorded performance, sound track, broadcast of an organisation of air or cable broadcasting, manufacturing, propagation or other use of which entails violation of the copyright and adjacent rights, are counterfeit.

3. Counterfeit are also copies of works, recorded performances, sound tracks, broadcasts of organisations of air or cable broadcasting protected in the Republic of Belarus pursuant to the present Law and imported without the consent of the right-owners into the Republic of Belarus.

4. Violation of the copyright adjacent rights envisaged by the present Law shall entail responsibility envisaged by the legislation of the Republic of Belarus.

5. The following shall also be violation of the copyright and adjacent rights:

any actions, including manufacturing, import with the purposes of propagation, or propagation (sale, lease) of devices or granting of services, which are executed knowingly or at presence of reasonable grounds to understand that they allow to bypass, without any permit, or promote bypassing of any technical means intended for protection of the copyright or adjacent rights, submitted the present Law, and the main commercial aim or the main commercial result of which being by-passing of such technical means;

removal or change of any electronic information about control over the rights without permit of the right-owner;

propagation, import with the purpose of propagation, putting on the air, communication for universal knowledge without permit of the right-owner of works, recorded performances, sound tracks, broadcasts of organisations of air or cable broadcasting, in relation to which

without the permit of the right-owner the electronic information on control over the rights was removed or changed.

6. Any copies of the work, recorded performance, sound track, broadcast of an organisation of air or cable broadcasting, from which, without permit of the right-owner, the information on control over the rights is removed or changed, or which have been manufactured, without permit of the right-owner, with the help of any illegally used devices indicated above in paragraph two of clause 5 of the present Article, are considered counterfeit pursuant to clauses 2 and 3 present Articles.

Article 40. Protection of Copyright and Adjacent Rights

1. For protection of their copyright or adjacent rights, the right-owners shall address in due order the court and other bodies pursuant to their competence.

2. Right-owners have the right to demand the following:

recognition of copyright or adjacent rights;

recovery of the situation that has existed before the violation of copyright or adjacent rights;

suppression of actions violating copyright or adjacent rights or creating a threat of violating them;

indemnity of losses, including lost profit;

collection of the income obtained by the infringer as a result of violation of copyright and adjacent rights, instead of indemnity of losses;

payment of compensation in the sum from 10 up to 50 thousand basic values salaries decided by the court, instead of an indemnity of losses or collection of the income with account of the essence of the offense;

undertaking other measures envisaged by the legislation in relation to protection of copyright or adjacent rights.

The measures indicated above in paragraphs five, six and seven of clause 2 of the present Article are applied at the choice of the right-owner.

3. Counterfeit copies of the works, recorded performances, sound tracks, broadcasts of organisations of air or cable broadcasting are subject to mandatory confiscation on judgement of the court that is considering cases on protection of copyright and adjacent rights.

The court has the right to make a judgement on confiscation of any materials and any equipment, including any devices above in paragraph two of clause 5 of Article 39 of the present Law, illegally used for manufacturing and reproduction of copies of the works, recorded performances, sound tracks, broadcasts of organisations of air or cable broadcasting with conversion of them into the income of the state.

4. Counterfeit copies of a work, recorded performance, sound track, broadcast of organisation of air or cable broadcasting may be delivered to right-owners on their demand.

5. Counterfeit copies of a work, recorded performance, sound track, broadcast of organisation of air or cable broadcasting not claimed by the owners of copyright and adjacent rights are subject to destruction or processing with conversion into the income of the state.

Article 41. Ways of Ensuring Claims on Cases about Violation of Copyright and Adjacent Rights

1. The court takes a ruling on prohibiting the defender to commit certain actions (manufacture, sale, import or other use envisaged by the present Law, and also transportation, storage or possession with the aim to issue into the civil circulation of copies of the works, recorded performances, sound tracks, broadcasts of organisations of air or cable broadcasting, in relation to which it is supposed that they are counterfeit, including illegal use of any devices above in paragraph two of clause 5 of Article 39 of the present Law).

2. The court takes a ruling on arresting and withdrawal of all copies of the works, recorded performances, sound tracks, broadcasts of organisations of air or cable broadcasting, in relation to which it is supposed that they are counterfeit, and also on arresting of any materials and any equipment intended for manufacturing them, including any illegally used devices above in paragraph two of clause 5 of Article 39 of the present Law.

3. In case there is sufficient data present about violation of copyright and adjacent rights, for which criminal responsibility is envisaged pursuant to the legislation, the inquiry body, the investigator or the court must take measures to ensure a submitted or possible in future civil action by search and arresting of copies of the works, recorded performances, sound tracks, broadcasts of organisations of air or cable broadcasting, in relation to which it is supposed that they are counterfeit, and also on any materials and any equipment intended for manufacturing them, including any illegally used devices above in paragraph two of clause 5 of Article 39 of the present Law, and in necessary cases – through withdrawal and delivery of them to accountable storage.

Article 42. Collective Management of Property Rights

1. With the aims to ensure ownership rights of authors, performers, producers of sound tracks and other owners of copyright and adjacent rights in cases, when they are difficult practically to execute in individual order, organisations may be established to execute and guard the rights of the above persons on the collective basis.

2. The order of creation and operation of such organisations is determined by the legislation of the Republic of Belarus.

* unofficial translation *
