

Copyright, Related Rights and Cultural Matters

(Law No. 2121/1993 as last amended by Law No. 2435 of August 2, 1996)*

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Section I

Object and Content of Copyright

Copyright

Art. 1.—

(1) Authors shall have, with the creation of the work, the right of copyright in that work, which includes, as exclusive and absolute rights, the right to exploit the work (economic right) and the right to protect their personal connection with the work (moral right).

(2) The above-mentioned rights shall include the powers to authorize that are provided for in Articles 3 and 4 of this Law.

Object of the Right

Art. 2.—

(1) The term “work” shall designate any original intellectual literary, artistic or scientific creation, expressed in any form, notably written or oral texts, musical compositions with or without words, theatrical

works accompanied or unaccompanied by music, choreographies and pantomimes, audiovisual works, works of fine art, including drawings, works of painting and sculpture, engravings and lithographs, works of architecture and photographs, works of applied art, illustrations, maps and three-dimensional works relative to geography, topography, architecture or science.

(2) The term “work” shall, in addition, designate translations, adaptations, arrangements and other alterations of works or of expressions of folklore, as well as collections of works or collections of expressions of folklore or of simple facts and data, such as encyclopedias, anthologies and databases, provided the selection or the arrangement of their contents is original. Protection afforded to the works listed in this paragraph shall in no way prejudice rights in the preexisting works, which were used as the object of the alterations or the collections.

(3) Without prejudice to the provisions of Section VII of this Law, computer programs and their preparatory design material shall be deemed to be literary works within the meaning of the provisions on copyright protection. Protection in accordance with this Law shall apply to the expression in any form of a computer program. Ideas and principles which underlie any element of a computer program, including those which underlie its interfaces, are not protected under this Law. A computer program shall be protected if it is original in the sense that it is the author’s personal intellectual creation.

(4) The protection afforded under this Law shall apply regardless of the value of the work and its destination and regardless of the fact that the work is possibly protected under other provisions.

(5) The protection afforded under this Law shall not apply to official texts expressive of the authority of the State, notably to legislative, administrative or judicial texts, nor shall it apply to expressions of folklore, news information or simple facts and data.

Economic Rights

Art. 3.–

(1) The economic rights shall confer upon the author notably the right to permit or prohibit:

- (a) the fixation and reproduction of the work by any means, such as mechanical, photochemical or electronic means;
- (b) the translation of the work;
- (c) the arrangement, adaptation or other alteration of the work;
- (d) the distribution of the original or copies of the work via a transfer of ownership, a rental arrangement or public lending, and, notably with reference to the use of copies, the imposition of limiting conditions on a transfer of ownership or a rental or public lending arrangement;
- (e) the communication of the work to the public;
- (f) the public performance of the work;
- (g) the broadcasting or rebroadcasting of the work to the public by radio or television, by wireless means or by cable or by any kind of wire or by any other means, in parallel to the surface of the earth or by satellite;
- (h) the import of copies of the work produced abroad without the creator’s consent or the import of copies from a country outside the European Community when the right over such imports had been retained by the author through contract.

(2) The use, performance or presentation of the work shall be deemed to be “public” when the work thereby becomes accessible to a circle of persons wider than the narrow circle of the family and the immediate social circle of the author, regardless of whether the persons of this wider circle are at the same or at different locations.

Moral Rights

Art. 4.–

(1) The moral rights shall confer upon the author notably the following rights:

- (a) to decide on the time, place and manner in which the work shall be made accessible to the public (publication);

- (b) to demand that his status as the author of the work be acknowledged and, in particular, to the extent that it is possible, that his name be indicated on the copies of his work and noted whenever his work is used publicly, or, on the contrary, if he so wishes, that his work be presented anonymously or under a pseudonym;
- (c) to prohibit any distortion, mutilation or other modification of his work and any offense to the author due to the circumstances of the presentation of the work in public;
- (d) to have access to his work, even when the economic right in the work or the physical embodiment of the work belongs to another person; in those latter cases, the access shall be effected with minimum possible nuisance to the right holder;
- (e) in the case of a literary or scientific work, to rescind a contract transferring the economic right or an exploitation contract or license of which his work is the object, subject to payment of material damages to the other contracting party, for the pecuniary loss he has sustained, when the author considers such action to be necessary for the protection of his personality because of changes in his beliefs or in the circumstances.

(2) With reference to the last case of the preceding paragraph, the rescission takes effect after the payment of the damages. If, after the rescission, the author again decides to transfer the economic right, or to permit exploitation of the work or of a like work, he must give, in priority, the former other contracting party the opportunity to reconstitute the old contract with the same terms or with terms similar to those which were in force at the time of the rescission.

(3) The moral rights shall be independent from the economic rights and shall remain with the author even after the transfer of the economic rights.

Droit de suite

Art 5.–

(1) Whenever an original work of fine art is resold at a public auction or by an art dealer or through the mediation of an art dealer, the author of the work and his heirs shall have the right to demand a share of 5 percent of the selling price. This right shall not be transferable between living persons.

(2) The amount shall be rendered by the organizer of the public auction or by the art dealer.

(3) Each year, when requested, organizers of public auctions and art dealers are obliged to provide the Fine Arts Chamber of Greece and the fine arts collecting societies with exact information regarding the works sold by them, or through their intervention, and on the sale prices of such works, during the preceding calendar year.

Section II **The Initial Subject of Copyright**

The Initial Right Holder

Art. 6.–

(1) The initial holder of the economic right and the moral right in a work shall be the author of that work.

(2) The above-mentioned rights shall be vested in the author of a work without resort to any formality.

Works of Joint Authorship, Collective and Composite Works

Art. 7.–

(1) The term “work of joint authorship” shall designate any work which is the result of the direct collaboration of two or more authors. The initial right holders in respect of the economic and moral rights in a joint work shall be the coauthors of that work. Unless otherwise agreed, the rights shall be shared equally by the coauthors.

(2) The term “collective work” shall designate any work created through the independent contribution of several authors acting under the intellectual direction and coordination of one natural person. That natural person shall be the initial right holder of the economic right and the moral right in the collective work.

Each author of a contribution shall be the initial right holder of the economic right and the moral right in his own contribution, provided that that contribution is capable of separate exploitation.

(3) The term “composite work” shall designate a work which is composed of parts created separately. The authors of all of the parts shall be the initial co-right holders of the rights in the composite work, and each author shall be the exclusive initial holder of the rights of the part of the composite work that he has created, provided that that part is capable of separate exploitation.

Employee-Created Works

Art. 8. Where a work is created by an employee in the execution of an employment contract the initial holder of the economic and moral rights in the work shall be the author of the work. Unless provided otherwise by contract, only such economic rights as are necessary for the fulfillment of the purpose of the contract shall be transferred exclusively to the employer.

Audiovisual Works

Art. 9. The principal director of an audiovisual work shall be considered as its author.

Presumptions

Art. 10.–

(1) The person whose name appears on a copy of a work in the manner usually employed to indicate authorship, shall be presumed to be the author of that work. The same shall apply when the name that appears is a pseudonym, provided that the pseudonym leaves no doubt as to the person’s identity.

(2) In the case of collective works, computer programs or audiovisual works, the natural or legal person whose name or title appears on a copy of the work in the manner usually employed to indicate the right holder shall be presumed to be the right holder of the copyright in the particular work.

(3) The presumption referred to in paragraphs (1) and (2), above, may be rebutted by evidence to the contrary.

Fictitious Initial Right Holders

Art. 11.–

(1) Whoever publishes an anonymous or pseudonymous work is deemed, in relation to third parties, to be the initial holder of the economic and moral rights in that work. When the true author of the work reveals his identity, he acquires the above-mentioned rights in the condition they are in as a result of the actions of the fictitious right holder.

(2) Whoever possesses and publishes works of authors who are deceased and are no longer protected under copyright is deemed to be the initial holder of the economic and moral rights in those works.

(3) In the cases referred to in paragraphs (1) and (2), above, the moral rights shall belong to the fictitious right holder insofar as that is compatible with his status.

Section III

Transfer, Exploitation and Exercise of Rights

Transfer

Art. 12.–

(1) The economic right may be transferred between living persons or *mortis causa*.

(2) The moral rights shall not be transferable between living persons. After the death of an author, the moral rights shall pass to his heirs, who shall exercise the rights in compliance with the author's wishes, provided that such wishes have been explicitly expressed.

Exploitation Contracts and Licenses

Art. 13.–

(1) The author of the work may conclude contracts, by which he entrusts economic rights to the other contracting party (exploitation contracts). The other party to the contract undertakes the obligation to exercise the rights thus entrusted.

(2) The author of the work may authorize another person to exercise economic rights (exploitation licenses).

(3) Exploitation contracts and licenses may be exclusive or non-exclusive. Exclusive exploitation contracts and licenses shall empower the other contracting party to exercise the rights conferred by the contract or license excluding any third person. Non-exclusive exploitation contracts and licenses shall give the right to the other contracting party to exercise the rights conferred by the contract or license in parallel to the author and other contracting parties. In the absence of an agreement to the contrary, the other contracting party shall be entitled in his own name to seek legal protection against illegal infringements by third parties of the rights he exercises.

(4) Where doubt exists about the exclusivity of an exploitation contract or license the contract or license shall be deemed to be non-exclusive.

(5) The contract or license may in no circumstance confer any total right over the future works of the author, and shall never be deemed to refer also to forms of exploitation which were unknown on the date of the contract.

(6) The rights of a person who undertakes to carry out the exploitation of a work or who acquires the possibility of exploitation may not be transferred between living persons without the consent of the author.

Form of Legal Acts

Art. 14. Acts dealing with the transfer of economic rights, with the assignment or licensing of the right of exploitation and with the exercise of the moral right shall be null and void, unless they are concluded in writing. Nullity may be invoked only by the author.

Extent of Transfer and of Exploitation Contracts and Licenses

Art. 15.–

(1) The transfer of the economic right and exploitation contracts or contracts licensing the exploitation of that right may restrict the rights they confer, their scope and duration, the geographical application and the extent or the means of exploitation.

(2) If the duration of the transfer or of the exploitation contract or license is unspecified, its duration shall be deemed to be limited to five years, provided conventional mores do not indicate otherwise.

(3) If the geographical application of the transfer or of the exploitation contract or license is unspecified, the said legal acts shall be deemed to apply to the country in which they were concluded.

(4) If the extent and the means of exploitation which the transfer concerns or for which the exploitation or the exploitation license is agreed are unspecified, it shall be deemed that the said acts refer to the extent and the means that are necessary for the fulfillment of the purpose of the contract or license.

(5) In all cases involving the transfer of the economic right or the granting of an exclusive exploitation license, the person who acquires the right or the license shall ensure that within a reasonable period of time, the work is accessible to the public via an appropriate form of exploitation.

Consent of the Author as Exercise of the Moral Right

Art. 16. The granting of consent by an author for an action or an omission which would otherwise constitute an infringement of his moral right shall be deemed to be a form of exercise of his moral right, and shall be binding upon him.

Transfer of the Physical Carrier

Art. 17. Unless there exists prior agreement to the contrary, in writing, with the initial right holder of the economic right, the transfer of the ownership of the physical carrier into which the work has been incorporated, whether in the original form or in any form of copy, shall not constitute a transfer of the copyright or confer on the new owner any rights to exploit the work.

Section IV Limitations on the Economic Right

Reproduction for Private Use

Art. 18.–

(1) Without prejudice to the provisions laid down in the following paragraphs, it shall be permissible for a person to make a reproduction of a lawfully published work for his own private use, without the consent of the author and without payment. The term “private use” shall not include use by an enterprise, a service or an organization.

(2) The freedom to make a reproduction for private use shall not apply when the act of reproduction is likely to conflict with normal exploitation of the work or to prejudice the author’s legitimate interests, and notably:

- (a) when the reproduction is an architectural work in the form of a building or similar construction;
- (b) when technical means are used to reproduce a fine art work which circulates in a restricted number of copies, or when the reproduction is a graphical representation of a musical work.

(3) If for the free reproduction of the work technical means are used, such as visual or sound, or audiovisual recording equipment, magnetic tapes or other materials, suitable for the reproduction of sounds or images or of sounds and images, photocopying machines, photocopy paper or computers, an equitable remuneration shall be payable to the author of the work and to any holders of related rights. The remuneration shall be fixed at 6 percent of the value of visual or sound, or visual and sound, recording equipment and of magnetic tapes or other materials, at 4 percent of the value of photocopying machines and of photocopy paper and at 2 percent of the value of computers. In any case, the calculation shall be made at the time of the import, or of the distribution from the factory, or at the time of the wholesale or retail sale. The remuneration shall be paid by the manufacturers or the importers or the vendors of the objects herein specified and shall be noted on the invoice, and collected by the collecting societies, acting for all or part of the concerned category of right holders. The collecting societies shall collect the said remuneration and shall choose the debtor. The remuneration collected from the manufacture, import or sale of photocopying machines, photocopy paper and computers shall be shared equally between the authors and the publishers of printed matter. The remuneration collected from the manufacturer, importer or vendor of visual or sound or audiovisual recordings shall be distributed in the proportion of 55 percent to the authors, 25 percent to the

performers and 20 percent to the producers of recorded magnetic tapes or other sound or visual or audiovisual recordings. The necessary details pertaining to the allocation and payment of monies to the various categories, or subcategories of the same category, of right holders can be determined through regulation by the Minister of Culture.

(4) Every collecting society is entitled to request at any time any debtor, by written notification, to declare the following by statutory statement of Law 1599/1986 to the Copyright Organization:

- a) the total value of the sound or visual or audiovisual recording equipment, the sound or visual or audiovisual recordings, photocopier machines, photocopier paper, computers or other technical means used for the reproduction of sound which he imported or made available or sold and
- b) that this is the real total value, without any omissions.

Within one month from the notification, the debtor is obliged to submit the said statutory statement to the Copyright Organization which should be signed by the debtor, if a personal enterprise, or the statutory representative, if a company.

(5) The collecting societies are not entitled to request the same debtor to submit a new statutory statement before the lapse of at least six months from the submission of the previous one.

(6) If the debtor does not comply with the obligation to submit the statutory statement referred to above, the one-member district court, by the procedure of injunction measures, may order the immediate submission of the statutory statement; in case of non compliance, a pecuniary fine of one to ten million drachmas may be imposed in favour of the applicant collecting society.

(7) If within twenty days from the publication of the said court order, the debtor does not comply with the obligation to submit the statutory statement, the time limit of six months is lifted regardless of any other sanction, and the collecting society is entitled to request the submission of a statutory statement every month. In this case, the provisions of the previous paragraph apply for every statutory statement.

(8) Every collecting society, at its own cost, is entitled to request the investigation of the accuracy of the contents of any statutory statement by a certified accountant appointed by the Copyright Organization. In case the debtor refuses to comply with the said investigation, the one-member district court may order it to in accordance with the above. The report of the certified accountant is submitted to the Copyright Organization and each collecting society is entitled to receive a copy. There cannot be carried out a new investigation for the same statement at the request of other collecting societies.

(9) All enterprises that import or produce or market or sell technical means and recordings that are subject to the fees of this article have the same rights the ones towards the others as the collecting societies referred to in the previous paragraphs. In case of investigation by a certified accountant, the expenses are incurred by the enterprise that requested the investigation.

(10) In the case that the importer is required to pay an equitable remuneration whether it concerns an import or inter-community acquisition of the sound or image or sound and image recordings or other technical means referred to in paragraph (3) of this Article, the remuneration is calculated on the value stated in the invoice of the foreign company, and the invoice note provided for by this article is made on the basis of the disposal invoice of the said recordings and technical means and simply states that the disposal price includes the fee calculated on the said value under paragraph (3) of this Article. The remuneration is payable three months after the import.

Quotation of Extracts

Art. 19. Quotation of short extracts of a lawfully published work by an author for the purpose of providing support for a case advanced by the person making the quotation or a critique of the position of the author shall be permissible without the consent of the author and without payment, provided that the quotation is compatible with fair practice and that the extent of the extracts does not exceed that justified by the purpose. The quotation of the extract must be accompanied by an indication of the source of the extract and of the names of the author and of the publisher, provided that the said names appear in the source.

School Textbooks and Anthologies

Art. 20.—

(1) The reproduction of lawfully published literary works of one or more writers in educational textbooks approved for use in primary and secondary education by the Ministry of National Education and Religions or another competent ministry, according to the official detailed syllabus, shall be permissible without the consent of the authors and without payment. The reproduction shall encompass only a small part of the total output of each of the writers.

(2) After the death of the author it shall be permissible to reproduce his works in a lawfully published anthology of literary works of more than one writer, without the consent of the right holders and without payment. The reproduction shall encompass only a small part of the total output of each of the writers.

(3) The reproduction, as specified in paragraphs (1) and (2), above, shall not conflict with the normal exploitation of the work from which the texts are taken and must be accompanied by an indication of the source and of the names of the author and the publisher, provided that the said names appear in the source.

Reproduction for Teaching Purposes

Art. 21. It shall be permissible, without the consent of the author and without payment, to reproduce articles lawfully published in a newspaper or periodical, short extracts of a work or parts of a short work or a lawfully published work of fine art work exclusively for teaching or examination purposes at an educational establishment, in such measure as is compatible with the aforementioned purpose, provided that the reproduction is effected in accordance with fair practice and does not conflict with the normal exploitation. The reproduction must be accompanied by an indication of the source and of the names of the author and the publisher, provided that the said names appear on the source.

Reproduction by Libraries and Archives

Art. 22. It shall be permissible, without the consent of the author and without payment, for a nonprofit-making library or archive to reproduce one additional copy from a copy of the work already in their permanent collection, for the purpose of retaining that additional copy or of transferring it to another nonprofit-making library or archive. The reproduction shall be permissible only if an additional copy cannot be obtained in the market promptly, and on reasonable terms.

Reproduction of Cinematographic Works

Art. 23. In cases where the holder of the economic right abusively withholds consent for the reproduction of a cinematographic work of special artistic value, for the purpose of preserving it in the National Cinematographic Archive, the reproduction shall be permissible without his consent and without payment, subject to a decision by the Minister of Culture, taken in conformity with the prior opinion of the Cinematography Advisory Council.

Reproduction for Judicial or Administrative Purposes

Art. 24. To the extent justified for a particular purpose, the reproduction of a work for use in judicial or administrative procedures shall be permitted without the consent of the author and without payment.

Reproduction for Information Purposes

Art. 25.–

(1) To the extent justified for the particular purpose, the following acts of reproduction shall be permissible without the consent of the author and without payment:

- (a) for the purpose of reporting current events by the mass media, the reproduction and communication to the public of works seen or heard in the course of the event;
- (b) for the purpose of giving information on current events, the reproduction and communication to the public by the mass media of political speeches, addresses, sermons, legal speeches or other works of the same nature, as well as of summaries or extracts of lectures, provided the said works are delivered in public.

(2) Wherever possible, the reproduction and communication to the public shall be accompanied by an indication of the source and of the name of the author.

Use of Images of Works Sited in Public Places

Art. 26. The occasional reproduction and communication by the mass media of images of architectural works, fine art works, photographs or works of applied art, which are sited permanently in a public place, shall be permissible, without the consent of the author and without payment.

Public Performance or Presentation on Special Occasions

Art. 27. The public performance or presentation of a work shall be permissible, without the consent of the author and without payment on the following occasions:

- (a) at official ceremonies, to the extent compatible with the nature of the ceremonies;
- (b) within the framework of staff and pupil or student activities at an educational establishment, provided that the audience is composed exclusively of the aforementioned persons, the parents of the pupils or students, persons responsible for the care of the pupils or students, or persons directly involved in the activities of the establishment.

Exhibition and Reproduction of Fine Art Works

Art. 28.–

(1) Museums which own the physical carriers into which works of fine art have been incorporated shall be entitled, without the consent of the author and without payment, to exhibit those works to the public on the museum premises, or during exhibitions organized in museums.

(2) The presentation of a fine art work to the public, and its reproduction in catalogs to the extent necessary to promote its sale, shall be permissible, without the consent of the author and without payment.

(3) In the cases dealt with in paragraphs (1) and (2), above, reproduction shall be permissible, provided such reproduction does not conflict with the normal exploitation of the work and does not unreasonably prejudice the legitimate interest of the author.

Section V Duration of Protection

Duration in General

Art. 29.–

(1) Copyright in a work shall last for the whole of the author's lifetime and for 70 years after his death, computed from the end of the year of death.

(2) After the expiry of the period of copyright protection, the State, represented by the Minister of Culture, may exercise the rights relating to the acknowledgment of the author's paternity and the rights relating to the protection of the integrity of the work deriving from the moral rights pursuant to Article 4(1)(b) and (1)(c) of this Law.

Works of Joint Authorship

Art. 30. Copyright in works of joint authorship shall last for the lifetime of the last surviving author and for 70 years after his death, computed from the end of the year of death.

Special Commencement of the Duration

Art. 31.–

(1) Copyright in works published anonymously or pseudonymously shall last for 70 years, computed from the end of the year in which the work was lawfully published for the first time, unless the author discloses his identity before the expiry of that period, in which case the general rules shall apply.

(2) Copyright in works published after the death of their authors by third persons possessing them, shall last for 70 years, computed from the end of the year in which the work was lawfully published for the first time.

Section VI Rules Relating to Exploitation Contracts and Licenses

Percentage Fee

Art. 32.–

(1) The fee payable to the author by the other contracting party to legal agreements relating to the transfer of all or part of the economic right, the granting of the exploitation or for the exploitation license shall be obligatorily determined as a percentage, agreed freely between the parties. The computation of the percentage shall be based on gross revenues without exception or the gross expenditure or on the combined gross revenues and expenditure realized from the activity of the other contracting party in the course of the exploitation of the work. By way of exception, in the following circumstances, the fee may be agreed as a lump sum:

- (a) when it is practically impossible to establish the basis for the calculation of a percentage fee or when there are no means of monitoring the implementation of a percentage arrangement;
- (b) when the expenditure required for the calculation and the monitoring is likely to be out of reasonable proportion to the fee to be collected;
- (c) when the nature or the conditions of the exploitation make the implementation of a percentage impossible, notably when the author's contribution is not an essential element in the intellectual creation as a whole, or when the use of the work is secondary in relation to the object of the exploitation.

(2) The obligatory percentage arrangement of the fee prescribed in paragraph (1), above, shall be implemented in all circumstances provided that this Law does not stipulate otherwise, and provided that it does not concern works created by employees in the execution of the employment contract, computer programs or advertisement in any form.

Rules Relating to Contracts for Printed Editions and Translators' Rights

Art. 33.–

(1) The fee payable by the publisher of a printed edition to the author for the reproduction and putting into circulation of a work or of copies of a work shall be agreed as a particular percentage of the retail selling price of all of the copies sold. When the contract for a printed edition refers to a literary work, such as a short story, a short novel, a novel, a poem, an essay, a critical essay, a theatrical work, a travel book or a biography, which is being published in book form in its original language, excluding pocketbook editions, the fee payable to the author by the publisher after the sale of 1,000 copies cannot be less than 10 percent of the retail selling price of all the copies sold.

(2) By way of exception to the provision in paragraph (1), above, the fee payable to the author may be agreed as a lump sum when the work is any of the following:

- (a) collective works;
- (b) encyclopedias, dictionaries or anthologies of works of others;
- (c) schoolbooks;
- (d) albums, calendars, agendas, instructional books, printed games and educational items such as maps or atlases;
- (e) prefaces, comments, introductions, presentations;
- (f) illustrations or photographic material in printed editions;
- (g) nonliterary picture books for children;
- (h) luxury editions of a limited number of copies;
- (i) magazines or newspapers.

(3) Where a work has more than one author, and in the absence of an agreement to the contrary, the percentage fee shall be distributed among the various authors proportionally according to the extent of their contributions. Where one or more of the authors are unprotected by the copyright provisions of the laws, those of the authors who do enjoy copyright protection shall be paid the percentage fee agreed or that percentage to which they would have been entitled under paragraph (1) of the present article, if all of them had been protected.

(4) Where copies of a work are the object of a rental or lending arrangement involving third parties, the fee payable for the granting of the necessary license shall be shared equally between the author and the publisher.

(5) In a case where the author's fee is fixed as a percentage of retail sales, and unless some other method of monitoring is agreed, each of the copies to be sold shall be signed by the author. An alternative method of monitoring the number of copies sold shall be fixed in a presidential decree, to be promulgated within six months of the entry into force of this Law, on the recommendation of the Minister of Culture after consultation with the interested professional branches.

(6) The fee payable by the publisher of a printed edition to the translator of a work with respect to the translation, reproduction and distribution of the work shall be agreed as a percentage of the retail selling price of all the copies sold. The provisions of paragraphs (2), (4) and (5) of this Article shall apply *mutatis mutandis*.

(7) The translator's name must be indicated on the main title page of the work. If the publisher agrees, the translator's name may also be indicated on the outer cover of the work.

Rules Relating to Audiovisual Production Contracts

Art. 34.–

(1) A contract dealing with the creation of an audiovisual work between a producer and an author shall specify the economic rights which are to be transferred to the producer. If the aforementioned provision is not met, the contract shall be deemed to transfer to the producer all the economic rights which are necessary for the exploitation of the audiovisual work, pursuant to the purpose of the contract. When the master from which copies for exploitation are to be made, is approved by the author, the audiovisual work shall be deemed to be accomplished. No alteration, abridgment or other modification shall be made to the definitive

form of the audiovisual work, as the latter has been approved by the author, without his prior consent. Authors of individual contributions to an audiovisual work may exercise their moral right only in relation to the definitive form of the work, as approved by the author.

(2) The contract between the producer of an audiovisual work and the creators of individual contributions incorporated in the work, shall specify the economic rights which are transferred to the producer. If the aforementioned provision is not met, the contract between the producer and the authors of individual contributions, other than the composers of music and writers of lyrics, shall be deemed to transfer to the producer those powers under the economic right which are necessary for the exploitation of the audiovisual work, pursuant to the purpose of the contract. Where the contributions to an audiovisual work are capable of separate use, the economic right in relation to other uses shall remain with their authors.

(3) The author of an audiovisual work shall retain the right to a separate fee for each form of exploitation of the work. The aforementioned fee shall be agreed as a percentage, specified in the relevant contract. The calculation of the percentage shall be based on gross revenues, without exception, or the gross expenditure or on the combined gross revenues and expenditure, realized in the course of the exploitation of the work. The producer of the audiovisual work is obliged once a year to give the author of the work all information concerning the exploitation of the work, in writing, showing him also all relevant documents. Short advertising films shall be exempt from the provisions of this paragraph.

(4) When visual or audiovisual recordings carrying a fixation of an audiovisual work are the object of a rental arrangement, the author shall in all cases retain the right to an equitable remuneration. This provision shall apply also in the case of a rental arrangement relating to sound recordings.

Rules Relating to Broadcasting by Radio and Television

Art. 35.–

(1) In the absence of an agreement to the contrary, the rebroadcasting of a work by radio or television shall require no consent from the author additional to that granted for the first broadcasting. However, when a broadcasting organization rebroadcasts a work it shall pay an additional fee to the author. For the first rebroadcast, the fee payable shall be at least 50 percent of the initial fee agreed for the first broadcast, and for each subsequent broadcast the additional fee shall be 20 percent of the initial fee. This provision shall not apply to the arrangements between collecting societies and users referred to in Article 56 of this Law.

(2) In the absence of an agreement to the contrary, the contract between an author and a broadcasting organization shall not empower the broadcasting organization to permit third parties to broadcast or rebroadcast to the public the work, which is the object of the contract, by wireless waves or by wire or by any other means, in parallel to the surface of the earth or by satellite.

(3) The broadcasting of a work via a satellite, offering reception over the whole of or a substantial part of Greece, shall be lawful only when the broadcasting organization, whence the uplink is released has acquired the power or has been granted the license to transmit broadcasts by radio and television in Greece.

Theatrical Performance Fee

Art. 36.–

(1) The rights of playwrights shall be determined as a percentage of gross receipts after deduction of the public entertainment tax.

(2) The fee shall be based on the gross receipts for the whole of the program of a performance of original works or translations or adaptations of ancient or more recent classical works, the minimum fee shall be 22 percent for performances in state theaters and 10 percent for performances in private theaters. For translations of modern works of the contemporary international repertory, the minimum fee shall be 5 percent. Where a program contains works by more than one playwright, the fee shall be shared among them in proportion to the duration of each playwright's work.

Musical Accompaniment of Films

Art. 37. The minimum fee payable to the composers of musical and song accompaniment of films, shown to the public in cinema halls or other spaces, shall be 1 percent of gross receipts after deduction of the public entertainment tax.

Photographers' Rights

Art. 38.—

(1) In the absence of an agreement to the contrary, a transfer of the economic right or exploitation contract or license dealing with the publication of a photograph in a newspaper, periodical or other mass media shall refer only to the publication of the photograph in the particular newspaper, periodical or mass media specified in the transfer or exploitation contract or license and to the archiving of the photograph. Every subsequent act of publication shall be subject to payment of a fee equal to half the current fee. The publication of a transferred photograph from the archive of a newspaper, periodical or other mass media shall be permitted only when accompanied by a reference to the title of the newspaper or of the periodical or to the name of the mass media, into whose archive the photograph was initially and lawfully placed.

(2) Where the publication of a photograph is facilitated by the surrender of the photographic negative, use shall be made of the negative, in the absence of an agreement to the contrary, only for the first publication of the photograph, after which the negative shall be returned to the photographer.

(3) The photographer shall retain the right to access and request the return to him of his photographs, which have been the object of an exploitation contract or license arrangement with a particular newspaper, periodical or other mass media and which have remained unpublished three months after the date of the exploitation contract or license.

(4) Each act of publication of a photograph shall be accompanied by a mentioning of the photographer's name. This shall apply likewise when the archive of a newspaper or of a periodical or of another mass media is transferred.

(5) The owner of a newspaper or of a periodical shall not be entitled to publish a photograph created by a photographer, employed by him, in a book or album publication without the employee's consent. This shall apply likewise to the lending of a photograph.

Nullity of Contrary Agreements

Art. 39. Except where provided for elsewhere in law, any agreement which lays down conditions contrary to the provisions of the articles of this Section, or which imposes a fee level lower than that prescribed in this Section, shall be null and void in respect of those of its clauses which are deleterious to the authors.

Section VII **Special Provisions Concerning Computer Programs**

Programs Created by Employees

Art. 40. The economic right in a computer program created by an employee in the execution of the employment contract or following instructions given by his employer, shall be transferred *ipso jure* to the employer, unless otherwise provided by contract.

Exhaustion of a Right

Art. 41. The first sale in the European Community of a copy of a program by the author or with his consent shall exhaust the distribution right within the Community of that copy, with the exception of the right to control further rental of the program or of a copy thereof.

Restrictions

Art. 42.–

(1) In the absence of an agreement to the contrary, the reproduction, translation, adaptation, arrangement or any other alteration of a computer program shall not require authorization by the author or necessitate payment of a fee, where the said acts are necessary for the use of the program by the lawful acquirer in accordance with its intended purpose, including correction of errors.

(2) Reproduction which is necessary for the purposes of loading, displaying, running, or storage of the computer program shall not fall under the restriction of the previous paragraph and shall be subject to authorization by the author.

(3) The making of a backup copy by a person having a right to use the computer program may not be prevented by contract insofar as it is necessary for the use of the program, and shall not necessitate an authorization by the author or the payment of a fee.

(4) The person having a right to use a copy of a computer program shall be entitled, without the authorization of the author and without payment of a fee, to observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program, if he does so while performing any of the acts, which he is entitled to do. Any agreement to the contrary shall be prohibited.

(5) Reproduction of a computer program for private use other than in the circumstances specified in paragraphs (3) and (4), above, shall be prohibited.

Decompilation

Art. 43.–

(1) The person having the right to use a copy of a computer program shall be entitled to carry out the acts referred to in Article 42(1) and (2) without the authorization of the author and without the payment of a fee when such acts are indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that the information necessary to achieve interoperability has not previously been easily and readily available to the person having the right to use the computer program, and provided that these acts are confined to the parts of the original program which are necessary to achieve the said interoperability.

(2) The provisions of paragraph (1) shall not permit the information obtained through its application:

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

(3) The provisions of this Article may not be interpreted in such a way as to allow its application to be used in a manner which would conflict with a normal exploitation of the computer program or would unreasonably prejudice the author's legitimate interests.

Duration of Protection

Art. 44. Protection shall be granted for the life of the author of the computer program and for 50 years after his death, computed from the end of the year of the author's death.

Validity of Other Provisions and Agreement

Art. 45.–

(1) The provisions of this Section shall be without prejudice to other legal provisions, relating notably to patent rights, trade marks, unfair competition, trade secrets, protection of semi-conductor products or the law of contract.

(2) Agreements contrary to the provisions of Article 42(3) and (4) and Article 43 of this Law shall be null and void.

Section VIII Related Rights

License by Performers

Art. 46.–

(1) The term “performers” shall designate persons who in any way act or perform works, such as actors, musicians, singers, chorus singers, dancers, puppeteers, shadow theater artists, variety performers or circus artists.

(2) Performers shall have the right to authorize or prohibit:

- (a) fixations of their live performances on a visual or sound or audiovisual recording;
- (b) the direct or indirect reproduction of fixations of their performances as well as the distribution of the recording via a transfer of ownership, a rental arrangement or public lending;
- (c) the radio or television broadcasting by any means such as wireless waves, satellite or cable, as well as the public performance of a recording with an illegal fixation of their performances;
- (d) the radio or television broadcasting by any means, such as wireless waves, satellite or cable of their live performances, except where the said broadcasting is a rebroadcasting of a lawful broadcasting;
- (e) the communication to the public of their live performances by any means other than radio or television transmission.

(3) Subject to contractual clauses to the contrary, explicitly specifying which acts are authorized, the acts listed in paragraph (2), above, shall be presumed to have been authorized when a performer has entered into an employment contact, having as its object the operation of those particular acts, with a party who is doing such acts. The performer shall at all times retain the right to remuneration for each of the acts listed in paragraph (2), above, regardless of the form of exploitation of his performance. In particular, the performer shall retain an unwaivable right to equitable remuneration for rental, if he has authorized a producer of sound or visual, or audiovisual recordings, to rent out recordings carrying fixations of his performance.

(4) Where a performance is made by an ensemble, the performers making up the ensemble shall elect and appoint in writing one representative to exercise the rights listed in paragraph (2) above. This representation shall not encompass orchestral conductors, choir conductors, soloists, main role actors and principal directors. If the performers making up an ensemble fail to appoint a representative, the rights listed in paragraph (2), above, shall be exercised by the director of the ensemble.

(5) It is prohibited to transfer during the lifetime of the performer and to waive the rights referred to in paragraph (2), above. The administration and protection of the aforementioned rights may be entrusted to a collecting society pursuant to Articles 54 to 58 of this Law.

License by Producers of Sound and Visual Recordings

Art. 47.–

(1) Producers of sound or visual or sound and visual recordings shall have the right to authorize or prohibit the direct or indirect reproduction and the distribution through transfer of ownership, rental or public

lending of their recordings. They shall also have the right to prohibit the import of recordings produced in a foreign country without their consent, or where the right to import has been retained through contract by the producer, the right to prohibit the import of recordings from any country outside the European Community.

(2) The term “producer of sound recordings” shall designate any natural or legal person who initiates and bears the responsibility for the realization of a first fixation of a series of sounds only. The term “producer of visual or sound and visual recordings” shall designate any natural or legal person who initiates and bears responsibility for the realization of a first fixation of a series of images with or without sound.

License from Radio or Television Organizations

Art. 48.–

(1) Radio or television organizations shall have the right to authorize or prohibit:

- (a) the retransmission of their broadcasts by any means such as wireless waves, satellite or cable;
- (b) the communication to the public of their broadcasts in places accessible to the public against payment of an entrance fee;
- (c) the fixation of their broadcasts on sound or visual or sound and visual recordings regardless of whether the broadcasts are transmitted by wire or by the air, including by cable or satellite;
- (d) the direct or indirect reproduction of fixations of their broadcasts as well as the distribution of recordings carrying the fixation of their broadcasts through transfer of ownership, rental or public lending.

(2) Radio or television organizations shall not have the right provided for in paragraph (1)(c), above, when they merely retransmit by cable the broadcasts of radio or television organizations.

Right to Equitable Remuneration

Art. 49.–

(1) When sound or visual or audiovisual recordings are used for a radio or television broadcast by any means, such as wireless waves, satellite or cable, or for communication to the public, the user shall pay a single and equitable remuneration to the performers whose performances are carried on the recordings and to the producers of the recordings. This remuneration shall be payable only to collecting societies. The said collecting societies shall be responsible for negotiating and agreeing the remuneration levels, raising the claims for the payment and collecting the remuneration from the users. Where there is a dispute between the users and the collecting societies, the level of the equitable remuneration and the terms of payment shall be determined by the single-member court of first instance pursuant to the cautionary measures procedure. The final judgment concerning the remuneration shall be rendered by the competent court.

(2) Without prejudice to the obligatory assignment of the administration of rights and the collection of the remuneration by collecting societies operating according to Articles 54 to 58 of the Law, the right of performers to the reasonable remuneration prescribed under paragraph (1), above, shall not be assignable.

(3) The collected remuneration shall be distributed in order of 50 percent to the performers and 50 percent to the producers of the recordings. The distribution of the collected remuneration among the various performers and among the various producers shall be effected pursuant to agreements among them, that are contained in the rules of each collecting society.

(4) Performers shall have the right to an equitable remuneration in respect of any radio or television rebroadcast of their performance transmitted by radio or television. Without prejudice to the possibility of assigning the administration of rights and the collection of remuneration to collecting societies according to the provisions of Articles 54 to 58 of this Law, an equitable remuneration prescribed in this paragraph shall not be assignable.

Moral Right

Art. 50.–

(1) During their lifetime, performers shall have the right to full acknowledgment and credit of their status as such in relation to their performances and to the right to prohibit any form of alteration of their performances.

(2) After the death of a performer that person's moral right shall pass to his heirs.

(3) The provisions of Article 12(2) and Article 16 of this Law shall be applicable *mutatis mutandis* to the moral right of performers.

Rights of Publishers

Art. 51. Publishers of printed matter shall have the right to authorize or prohibit the reproduction by reprographic, electronic or any other means of the typesetting and pagination format of the works published by them, if the said reproduction is made for exploitation purposes.

Form of the License, Limitations and Duration of the Rights

Art. 52. The rights prescribed in Articles 46 to 51 of this Law shall be subject to the following rules:

- (a) agreements concerning those rights shall be valid legal agreements only when concluded in writing;
- (b) the limitations applicable to the economic right attaching to copyright shall apply *mutatis mutandis*;
- (c) protection of the rights of performers prescribed in Articles 46 and 49 of this Law shall be granted for 50 years from the end of the year in which the performance took place, but shall in no case expire before the death of the performer;
- (d) protection of the rights of producers of recordings, of radio or television organizations and of publishers prescribed in Articles 47 to 49 and Article 51 of this Law shall be granted for 50 years from the end of the year in which the recording was made or the first radio or television broadcast took place or in which the last edition of the work was published.

Protection of Copyright

Art. 53. The protection provided under Articles 46 to 52 of this Law shall leave intact and shall in no way affect the protection of copyright. In no circumstance shall any of the provisions of the aforementioned Articles be interpreted in such a manner as to lessen that protection. Where performers, producers of sound or visual or audiovisual recordings, radio or television organizations and publishers acquire the copyright in a work in addition to related rights, such rights shall apply in parallel with each other and shall confer the rights deriving therefrom.

Section IX **Administration by Collecting Societies**

Assignment of Administration

Art. 54.–

(1) Authors may assign the administration and/or protection of their rights to a collecting society established exclusively to engage in the functions of administering and protecting all or part of the economic rights. Likewise, collecting societies may perform those functions for a person to whom the author has granted a right as a gift, for a general proxy, for an heir or for a foundation set up by an author. A collecting

society may have any form of company status. Where a collecting society is registered as an incorporated company all of its shares shall be nominal. All other matters pertaining to the company status of collecting societies shall be regulated pursuant to Article 24(2) and (4) of Law No. 1746/1988. The notification provided for under Article 24(4) of Law No. 1746/1988 shall be issued only by the Ministry of Culture. A collecting society may have the status of an urban cooperative pursuant to Law No. 1667/1986. Where a collecting society has the status of an urban cooperative the following provisions shall apply:

- (a) wherever, in Law No. 1667/1986, competence is granted to the Ministry for the National Economy, that competence shall be transferred to the Ministry of Culture;
- (b) by way of derogation from the principle of locality, the cooperative may be established and function on a nationwide basis;
- (c) all members of the cooperative may be legal entities;
- (d) the articles of association of these cooperatives may provide for the following:
 - aa) terms, internal procedures and bodies that will decide on the entry, withdrawal or exclusion of a partner, which depart from the terms, procedures and bodies provided for by paragraphs (4), (5), (6), (7) and (8) of Article 2 of Law 1667/1986,
 - bb) that, in the event of the withdrawal or exclusion of a partner or non acquisition of the capacity of a partner by the heirs, there is no claim by the partner or the heirs for the return of their cooperative shares or for payment of the value thereof, or that there is a claim for return of the par value of the shares only,
 - cc) the possibility to acquire an unlimited number of elective shares by the partners,
 - dd) that cooperative shares cannot be transferred between living persons,
 - ee) categories of partners either without a voting right or with a number of votes per partner which is independent of the number of compulsory or elective shares of each partner,
 - ff) the restriction of the right of subparagraph (b) of paragraph (2), Article 4 of Law 1667/1986 for the protection of the lawful interests of the collecting societies,
 - gg) that, apart from the sum of their shares, the new partners have no obligation of payment and contribution proportional to the net assets of the cooperative or that they have such obligation for a limited time after the establishment of the cooperative.
- e) these cooperatives are always of limited liability and the partners are not personally liable for the debts of the cooperative.
- f) a presidential decree issued on suggestion of the Minister for Culture may regulate the matters of Articles 5, 6, 7, and 8 of Law 1667/1986, as well as all matters of internal relations of these cooperatives, in accordance with the provisions applicable in the member states of the European Union concerning the collective management of organizations operating in an identical or similar form.

(2) In cases of unaltered and unabridged secondary transmissions of radio and television programs by cable or other physical means, administration by collecting societies shall be obligatory for the rights of authors.

(3) The title (of a collecting society) may be established by a transfer of such economic rights for which protection is sought, or by grant of appropriate powers of attorney. The title shall be established in writing and shall be for a specified period which shall never be longer than three years. The agreement establishing the title shall specify precisely which of the author's works are included under the title as suitable for exploitation. In case of ambiguity, it shall be presumed that the agreement embraces all the author's works, including any works he may create during the term of agreement, which shall in no case be longer than three years.

(4) Before commencing operations, a collecting society which has undertaken or proposes to undertake the administration or protection of rights stemming from the economic right of authors shall lodge a statement to that effect with the Ministry of Culture together with a copy of its rules providing at least the following information:

- (a) the amount of the society's share capital;
- (b) if the society has company status, its articles of association or deed of association;

- (c) the name of the responsible spokesman of the society and the names of the persons responsible for its administration, all of whom shall be of proven professional repute and without convictions for felony or misdemeanor against ownership or property;
- (d) the number of authors who have assigned to the society the administration of rights stemming from their economic right;
- (e) the legal form through which the title of administration has been effected;
- (f) in each case, duration of the title;
- (g) the principles governing the distribution of remuneration to right holders and the proposed dates and manner of distribution;
- (h) the level of management expenses as well as any element necessary to ensure the viability of the collecting society and the efficiency of its operations.

The Ministry of Culture shall check the statement and rules lodged by the collecting society and, provided that the information therein contained demonstrates compliance with the requirements of this Law, grant approval for the society's operations. Any subsequent alteration of the collecting society's rules shall be submitted to the Ministry of Culture for approval. No alteration to a society's rules shall be valid without the approval of the Ministry of Culture, and in a case where such approval is either not sought or not granted the rules as initially approved shall continue to apply in their entirety.

(5) The Ministry of Culture shall monitor the operations of collecting societies to ensure that they comply with the provisions of this Law and with their rules. Each collecting society shall, when requested, surrender its accounts to the competent department of the Ministry of Culture for inspection and submit any other information that is necessary for the effective monitoring of its operations. Except when a collecting society is a nonprofit organization, its accounts shall be subject to inspection by sworn auditors regardless of its company status.

(6) Where a collecting society is found to have perpetrated a serious violation of the Law or of its rules, or continues to perpetrate such a violation despite being admonished by the Ministry of Culture to desist, the Minister of Culture may impose on the collecting society, without prejudice to the applicability of other penalties, an administrative fine of from 500,000 to 10 million drachmas. Matters pertaining to monitoring, the interviewing of alleged perpetrators of violations, the procedure for the imposition of fines and adjustments to the above financial amounts shall be determined by presidential decrees issued on the recommendation of the Minister of Culture.

(7) Wherever the term "rules" appears in this Law it shall have the meaning of the term as it is used in paragraph (4) of this Article.

The Competence of Collecting Societies

Art. 55.–

(1) Collecting societies shall have the competence to perform the following functions:

- (a) concluding contracts with users specifying the terms of exploitation of works and the remuneration payable;
- (b) securing for authors the percentage fee referred to in Article 32(1) of this Law;
- (c) collecting remuneration and distributing it among authors as necessary;
- (d) collecting and allocating among authors the remuneration referred to in Article 18(3) of this Law;
- (e) effecting all administrative, judicial and extrajudicial tasks necessary to secure lawful protection of the rights of authors and other right holders, notably taking legal steps and court actions, lodging of complaints and serving writs, appearing as civil plaintiffs, seeking the prohibition of acts deemed to infringe rights whose protection is assigned to them and requesting seizure of unlawful copies pursuant to Article 64 of this Law;
- (f) obtaining from users all information needed for the computation, collection and allocation of remuneration;
- (g) carrying out, in collaboration with public authorities or pursuant to the procedure referred to in Article 64 of this Law, all necessary checks at outlets for the sale, rental and lending of copies

of works under their protection, and at public performances of works, in order to protect against infringements of the rights of authors. The establishment act of the collecting society can limit its competence to only part of the above-mentioned.

(2) A collecting society shall be presumed to have the competence to administer and/or protect the rights in all of the works or in respect of all of the authors concerning which or whom a declaration of transfer to the society has been effected in writing, or for which it has been granted power of attorney. Regardless of whether its authorization rests on a transfer of rights or on power of attorney, a collecting society shall in all circumstances be entitled to initiate judicial or extrajudicial action in its own name and to exercise in full legitimacy all the rights transferred to it, or for which it holds power of attorney.

(3) When seeking the protection of the courts for works or authors under its protection a collecting society shall not be required to provide an exhaustive list of all of the works which have been the object of the unlicensed exploitation, and it may lodge only a sample list.

(4) If a right holder disputes a collecting society's competence over a work which is assumed to be included under the declaration referred to in paragraph (2), above, and which has, accordingly, on the basis of that declaration, been included in a contract concluded by the collecting society with a user, the collecting society shall defend the case of the user and offer all possible assistance in any court action which may follow. If the collecting society is adjudged not to have competence over the work, it shall, in addition to any penalty imposed upon it, be liable for the payment of compensation to the user with which it signed the contract, the amount of which shall be determined pursuant to the special safeguarding measures.

Relations with Users

Art. 56.–

(1) When granting users the facility to make use of works assigned to it, a collecting society shall demand from the users payment of the percentage fee specified in Article 32(1) of this Law. The exceptions provided for in Article 32(2) of this Law with respect to the percentage fee shall not apply in these circumstances.

(2) A collecting society may not refuse to conclude a contract with a user, as referred to in Article 55(1)(a), without good reason. If an aspiring user is of the opinion that the remuneration demanded by a collecting society is clearly in excess of that usually payable in similar circumstances, the aspiring user shall pay to the collecting society, in advance of any use, either the remuneration demanded or an amount determined, upon request, by a court of first instance as being equal to the remuneration usually payable in similar circumstances, pursuant to the safeguarding measures. The final judgment concerning the remuneration shall be rendered by the competent court.

(3) Organizations representing users may, together with collecting societies, decide by written agreement to appoint an arbiter, specifically by name or position, to determine the amount of remuneration to be paid by a user before disagreement arises. Before finally deciding on the remuneration due the arbiter may order the user to lodge a down payment. An arbiter thus appointed shall have exclusive competence for the settling of disagreements. The decisions of an arbiter shall be equitable. The Minister of Culture may himself decide to appoint an arbiter. In such a case, recourse to that arbiter by the parties to a dispute shall be voluntary and by agreement. Collecting societies shall draw up lists of the remuneration payable by users (remuneration tariffs) and shall promulgate the said lists in not less than three daily journals, one of which shall be a financial journal. When drawing up and implementing their remuneration tariffs, collecting societies shall refrain from inconsistency and discrimination.

(4) In order to facilitate the actions referred to in circumstances (a), (b), (c) and (d) of Article 55(1), users shall without delay make available to collecting societies lists of the works of which they are producing, selling, renting or lending copies, together with the exact numbers of copies produced or distributed, and likewise lists of the works they are performing publicly, together with a statement of the frequency of such performances.

Relations with Authors

Art. 57.–

(1) A collecting society may not without good reason refuse to undertake for any particular author the administration and/or protection of the rights deriving from the economic rights of that author and the subject of the administration of the collecting society.

(2) A collecting society shall consult annually with the authors whose rights are transferred to it in order that the authors may express their views concerning the rules used to determine levels of remuneration, the methods used for the collection and distribution of remuneration and any other matter pertinent to the administration and/or protection of their rights. The collecting societies have to take into consideration these views during the processing of administrative procedures.

(3) Authors who transfer the administration and/or protection of their rights to a collecting society, together with the societies which represent them, shall be entitled to all relevant information concerning the activities of the collecting society.

(4) Where the author transfers all of his works to a collecting society for administration and/or protection, he shall give the society full information in writing about the publication of those works and shall inform the society whenever he publishes a new work after the date of the transfer of his rights.

(5) Collecting societies shall draw up rules for the distribution of remuneration to authors. Distribution shall be effected at least once annually and shall to the highest possible extent be proportionate to the actual use made of the works.

(6) For each general category of authors and each form of exploitation, collecting societies shall fix a percentage of the remunerations collected to cover their expenditures. Authors shall be informed of the relevant percentage before they transfer or grant power of attorney over their rights. The fixed percentage may be increased only with the consent of the author or after notice, served one year in advance.

(7) An author or a collecting society shall be entitled to abrogate the agreement transferring economic rights where irrefutably good grounds exist for such action. Provided not less than three months' notice is given, the abrogation shall take effect from the end of the calendar year in which it is notified. If less than three months' notice is given, the abrogation shall take effect from the end of the following calendar year.

Application to Related Rights

Art. 58. The provisions of Articles 54 to 57 shall be applicable *mutatis mutandis* to the administration and/or protection of the related rights regulated by the provisions of Section VIII of this Law.

Section X Measures to Prevent Infringements

Imposition of and Adherence to Specifications

Art. 59. Presidential decrees may be issued, on the recommendation of the Ministry of Culture, laying down specifications for the equipment and other materials used in the making of reproductions of works with a view to preventing or limiting the use of such equipment and materials for purposes which conflict with the normal exploitation of copyright and related rights.

Use of Control Systems

Art. 60. Presidential decrees may be issued on the recommendation of the Minister of Culture, making compulsory the use of equipment or systems which permit the designation of reproduced or used works and the extent and frequency of the reproduction or use, subject to such methods not causing unjustifiable harm to the lawful interests of users.

Control Labeling

Art. 61. Presidential decrees may be issued, on the recommendation of the Minister of Culture, stipulating that visual or sound or visual and sound recordings may circulate only when they carry on their outer casing or in another prominent position a special mark or control label of any type supplied by the competent collecting society, indicating that their distribution on the market or their circulation in some other manner, does not constitute an infringement of the rights of the author.

Prohibition of Decoding

Art. 62. The distribution, use, and the possession with intent to use or distribute, of decoding equipment shall be prohibited without the permission of the broadcasting organizations which transmit encrypted programs by wire or over the air, including by cable or satellite.

Stopping an Infringement or its Continuation

Art. 63.–

(1) Where a potential infringement of copyright is identified, such as where there is a clear intention to offer an unlawful public performance of a theatrical or cinematographic or a musical work, the competent local police authority shall prohibit the infringing act when requested to do so by the author or right holder. When requested, the prosecuting authorities shall grant the police authority any necessary mandate. The same shall apply when the public presentation of a work has been in progress for more than two days without payment of due remuneration.

(2) The granting of a police license permitting the use of musical instruments or certifying the suitability of premises, or of any other license required in law for the use of premises for the performance of musical or other works, whose administration is entrusted to a collecting society competent to authorize the public performance of works, shall be conditional on the deposition by the applicant of a written authorization for the performance, issued by that collecting society.

(3) Where there is reason to believe that an infringement of copyright is occurring or may occur, a single-member court of first instance shall be empowered to invoke the safeguarding measures and to issue a prohibition order without the necessity of specifically designating the works thereby protected.

(4) Paragraphs (1), (2), and (3) of this Article shall apply *mutatis mutandis*, to infringements of the related rights referred to in Articles 46, 47 and 48 of this Law.

Section XI Sanctions

Seizure

Art. 64. Where there is reason to believe that an infringement of copyright or of the related rights referred to in Articles 46 to 48 and 51 of the present Law is occurring or may occur, a single-member court of first instance shall order, as a cautionary measure, the conservatory seizure of any item in the possession of the defendant which is manifestly a means to the effecting of the infringement, or a product of or evidence of the infringement. Instead of conservatory seizure, the court may order that a detailed inventory and photographic record be made of the items. Each of the aforementioned actions shall be effected in accordance with Article 687(1) of the Civil Procedure Code and a provisional order shall be obligatorily issued pursuant to Article 691(2) of the Civil Procedure Code.

Civil Sanctions

Art. 65.–

(1) In all cases of infringement of copyright or of related rights the author or right holder shall be entitled to demand the recognition of his right, the suppression of the infringement and the omission of the infringement in the future.

(2) A person who by intent or negligence infringes copyright or a related right of another person shall indemnify that person for the moral damage caused, and be liable for the payment of damages of not less than twice the legally required or normally payable remuneration for the form of exploitation which the infringing party has effected without license.

(3) Instead of seeking damages, and regardless of whether the infringement was committed by intent or negligence, the author or the right holder of the related right may demand either the payment of the sum accrued by the infringing party from the unlicensed exploitation of a work, or of the object of a related right, pursuant to Articles 46 to 48 and 51 of this Law, or the profit gained by the infringing party from such an exploitation.

(4) For each act of omission contributing to an infringement, the court may impose a fine of from 300,000 to 1 million drachmas payable to the author or to the right holder of the related rights referred to Articles 46 to 48 and 51 of this Law and imprisonment of up to one year. The same shall apply when the conviction is effected pursuant to the procedure under the safeguarding measures. All other matters shall be regulated pursuant to Article 947 of the Civil Procedure Code.

Criminal Sanctions

Art. 66.–

(1) Any person who, in contravention of the provisions of this Law or of the provisions of lawfully ratified international conventions on the protection of copyright, unlawfully makes a fixation of a work or reproduces an original or a translation or an adaptation of a work, or distributes a work or possesses a work with the intent of distributing it, or infringes restrictions on the use of a work, or presents a work to the public, or performs a work in public, or broadcasts a work by radio or television, or in any way exploits a work which is the object of copyright, or who imports copies of a work or organizes a public performance of a work or acts against the right of the author to decide freely on the presentation of his work to the public without additions or deletions, shall be liable to imprisonment of not less than one year and to a fine of from 1 to 5 million drachmas.

(2) The sanctions listed in paragraph (1), above, shall be applicable to any person who, in contravention of this Law, as it refers to related rights, or of the provisions of lawfully ratified international conventions, as they refer to related rights:

- (a) makes a fixation of a sound or visual or sound and visual recording, or broadcasts by any means or presents to the public a live performance without the consent of the performer;
- (b) effects a rebroadcast of a radio or television broadcast by any means or makes a fixation of a radio or television broadcast or presents to the public, on payment of an admission fee, a radio television broadcast without the consent of the broadcasting organization which is the right holder in respect of the broadcast;
- (c) reproduces or distributes, or possesses with intent to distribute a sound or visual recording bearing a fixation of a performance without the consent of the producer and of the performer;
- (d) presents a performance to the public by any means other than by a radio or television transmission without the consent of the performer;
- (e) reproduces, distributes or uses in any manner a fixation of a broadcast without the consent of the broadcasting organization which is the right holder;
- (f) imports sound or visual recordings produced in a foreign country without the consent of the producer, or imports sound or visual recordings whose import is not permitted under the license. In circumstances (a), (e) and (f), the guilty person shall be convicted and if he ought to have known of the lack of the license.

(3) If the financial gain sought or the damage caused by the perpetration of an act listed in paragraphs (1) and (2), above, is particularly great, the sanction shall be not less than two years imprisonment and a fine of from 2 to 10 million drachmas. If the guilty party has perpetrated any of the aforementioned acts by way of standard practice or if the circumstances in connection with the perpetration of the act indicate that the guilty party poses a serious threat to the protection of copyright or related rights, the sanction shall be imprisonment of up to 10 years and a fine of from 5 to 10 million drachmas, together with the withdrawal of the trading license of the undertaking which has served as the vehicle for the act. The act shall be likewise deemed to have been perpetrated by way of standard practice if the guilty party has on a previous occasion been convicted of a contravention pursuant to the provisions of the Article or for a violation of the preceding copyright legislation and sentenced to a non-redeemable period of imprisonment.

(4) Any person who did not pay the remuneration provided for by Article 18, paragraph (3) hereof to a collecting society is punished with the sanction of paragraph (1), (2) and (3).

(5) The sanctions specified in paragraph (1), above, shall be applicable likewise to any person who:

- (a) uses or distributes, or possesses with the intent to distribute, any system or means whose sole purpose is to facilitate the unpermitted removal or neutralization of a technical system used to protect a computer program;
- (b) manufactures or imports or distributes, or possesses with intent to distribute, equipment and other materials utilizable for the reproduction of a work which do not conform to the specifications determined pursuant to Article 59 of this Law;
- (c) manufactures or imports or distributes, or possesses with intent to distribute, objects which can thwart the efficacy of the above-mentioned specifications, or engages in an act which can have that result;
- (d) reproduces or uses a work without utilizing the equipment or without applying the systems specified pursuant to Article 60 of this Law;
- (e) distributes, or possesses with intent to distribute, a phonogram or film without the special mark or control label specified pursuant to Article 61 of this Law.

(6) Where a sentence of imprisonment is imposed with the option of redeemability, the sum payable for the redemption shall be 10 times the sum specified as per the case in the Penal Code.

(7) Where mitigating circumstances exist, the fine imposed shall not be less than half of the minimum fine imposable as per the case under this Law.

(8) In all cases of conviction the court may order the publication of an abstract of the verdict at the convicted person's expense.

Section XII

Final and Transitional Provisions

Applicable Legislation

Art. 67.–

(1) Copyright in a published work shall be governed by the legislation of the State in which the work is first made lawfully accessible to the public. Copyright in an unpublished work shall be governed by the legislation of the State in which the author is a national.

(2) Related rights shall be governed by the legislation of the State in which the performance is realized, or in which the sound or visual or sound and visual recording is produced, or in which the radio or television broadcast is transmitted or in which the printed publication is effected.

(3) In all cases, the determination of the subject, object, content, duration and limitations of the right shall be governed by the legislation applicable pursuant to paragraphs (1) and (2), above, with the exception of any exploitation license arrangement. The protection of a right shall be subject to the legislation of the State in which the protection is sought.

(4) Paragraphs (1), (2) and (3), above, shall apply except where they run contrary to any international convention ratified by Greece. In the case of States not conjoint with Greece through the ratification of an

international convention, paragraphs (1), (2) and (3), above, shall be applicable as regards the protection of copyright or of any particular object of copyright or of any particular related right, provided that the legislation of the relevant state offers adequate copyright protection to works first made accessible to the public in Greece and to related rights stemming from acts effected in Greece.

Law Not Retroactive

Art. 68.–

(1) Works for which the duration of protection has expired prior to the entry into force of this Law shall remain without copyright protection.

(2) The protection prescribed under Article 2(3) and Articles 40 to 53 shall become applicable to computer programs created in the past and to related rights stemming from acts effected in the past from the date of the entry into force of this Law.

(3) Contracts concluded before the entry into force of this Law shall be governed by the preceding legislation for one year from the date of the entry into force of this Law.

Establishment of the Copyright Organization

Art. 69.–

(1) A legal entity in private law under the jurisdiction of the Ministry of Culture shall be established at a registered address in Athens under the title “The Copyright Organization.” The purpose of the Copyright Organization shall be the protection of authors and of holders of related rights, the supervision of the collecting societies, the implementation of this Law and of related international conventions, the preparation of legal studies on matters pertaining to copyright and related rights and the representation of Greece in dealings with all the competent international organizations and with the institutions of the European Community. The Copyright Organization may, in addition, convene seminars of any type for the purposes of providing information and training to judges, lawyers, administrators, authors, holders of related rights, students and other interested parties on matters pertaining to copyright and related rights. In no circumstance shall the Copyright Organization have as its purpose the administration of rights pursuant to Articles 54 to 58 of this Law.

(2) The Copyright Organization shall receive, by way of grant financing, a percentage, not greater than 5 percent, of the gross sums collected by the collecting societies. The exact percentage and the manner of its payment shall be determined by presidential decree issued on the recommendation of the Minister of Culture. The Copyright Organization may also receive grant financing from international organizations and the institutions of the European Community, gifts and bequests, grants from any third party and the revenues due to it for the rendering of services. As commencement finance the Copyright Organization shall receive a one-off grant of 20 million drachmas from the budget of the Ministry of Culture.

(3) Matters pertaining to the main focus and detailed field of competence of the Copyright Organization within the framework of its overall purpose, the exact manner of its overall purpose, the exact manner of its powers and the procedure relating to its exercise of them, its management and the supervision of its administration, its internal structure and personnel, the fees it charges for services which may, as required, be adjusted by decision of the Minister of Culture, the determination of its scientific, management and ancillary staffing requirement, its remuneration and every other detail shall be determined by presidential Decree issued on the joint recommendation of the Minister of Culture, the Minister to the Office of the Prime Minister and the Minister of Finance.

Collecting Societies Already Functioning

Art. 70.–

(1) Collecting societies which are already functioning at the date of the promulgation of this Law shall, within 12 months of the entry into force of this Law, lodge with the Ministry of Culture the statement and copy of their rules required under Article 54(4) of this Law and generally shall carry out all other actions necessary to comply with this Law.

(2) Societies of authors which at the date of the promulgation of this Law are carrying on the administrative activity referred to in Article 5 of Law No. 4301/1929 and Article 43 of Law No. 1597/1986 may continue to carry on that activity for 24 months from the date of the entry into force of this Law.

Implementation of Directives of the European Community

Art. 71.–

(1) Articles 2(3) and 40 to 45 of this Law shall constitute implementation of Council Directive 91/250/EEC of May 14, 1991, on legal protection of computer programs.

(2) Articles 3(1)(d), 9, 34, 46, 47, 48, 49, 52 and 53 of this Law shall constitute implementation of Council Directive 92/100/EEC of November 19, 1992, on rental right and lending right and on certain rights related to copyright in the field of intellectual property.

Repeal of Provisions and Regulation of Other Matters

Art. 72.–

(1) From the date of the entry into force of this Law every provision which runs counter to this Law or deals with matters which are regulated by this Law shall be repealed. Specifically, the following laws and parts of laws shall be repealed: GYPG/1909 and 2387/1920; Legislative Decree No. 12/15 of June 1926, Laws Nos. 4186/1929, 4301/1929 and 4489/1930, Article 2(1) of Legislative Decree 619/1941, Legislative Decree No. 2179/1943, Laws Nos. 763/1943, 1136/1944 and 56/1944, Article 12 of Law No. 3188/1995, Legislative Decree No. 4264/1962, Article 4 of Law No. 1064/1980, Articles 5 and 10 to 22 of Law No. 1075/1980, Article 19 of Law No. 1348/1983 and Articles 3, 40, 43 and 46 of Law No. 1597/1986.

(2) Law No. 988/1943 shall remain in force.

(3) Collecting societies established and functioning pursuant to Articles 54 to 58 of this Law shall have the right to organize conferences on matters pertaining to copyright and related rights and to participate in such conferences. Articles 54 to 58 of this Law shall not prevent the concluding of reciprocal contracts between collecting societies established in other countries and collecting societies established in Greece.

(4) Until July 1, 1994, paragraphs (1), (2) and (3) of Article 49 of this Law shall not be applicable to phonograms used for presentations to the public in cafes in communes with populations of less than 5,000 inhabitants.

(5) Article 38(4)(a) of this Law shall apply to the publication of any photograph whatsoever.

(6) From the entry into force of this law and until the beginning of operation of one year or more collection societies that can make decisions concerning the sum due, the provisions of paragraphs (1) and (2) of Article 5 of this law shall not be applied in the event that the person described in paragraph(2) of the same Article deposit at least part of the fees paid by the buyer, provided that:

- a) for this sum, the applicable law at any time provides for an exemption from tax due,
- b) the sum has been deposited in an account opened for this purpose by recipient of the sum at the Loans and Consignments Fund or at a bank lawfully operating in Greece, and
- c) the receipt of the deposit includes:
 - aa) the particulars of the depositor and the recipient of the sum,
 - bb) the sum of the deposit,
 - cc) the date of the deposit and,
 - dd) the signature of the recipient of the deposit or his lawful representative.

Section XIII

Cultural Matters and Other Arrangements

*Art. 73.*¹

Art. 74. The positions of managing director, director general, manager, chairman and vice-chairman of a nonprofit-making collecting society shall not be deemed out of keeping with the calling of lawyer and shall not be grounds for removing from a register of lawyers the name of any lawyer holding such a position or for downgrading the status of any such lawyer.

*Art. 75. and Art. 76.*²

Section XIV

Entry into Force

Art. 77. With the exception of Article 69, this Law shall enter into force from the date of its promulgation in the Official Journal. Article 69 of this Law shall enter into force six months after the date of the promulgation of this Law in the Official Journal.

We command the promulgation of this Law in the Official Journal and its implementation as a law of the State.

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