

OFFICIAL BULLETIN OF PORTUGUESE GUINEA

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		Province	Metropolitan Portugal and Overseas Territories		Abroad
	Quarterly	100\$00	150\$00		200\$00
	Half-yearly	180\$00	270\$00		360\$00
	Annual	340\$00	410\$00	680\$00	
<p>The annual subscription for the Public Services of this Province is set at 300\$00.</p>					

SECOND SUPPLEMENT

SUMMARY

Directorate General for Justice

Decree 679/71

Of December 7

Ministry of Overseas Territories

Decree No. 679/71

Extending Decree-Law No. 46 980 approving the Copyright Code to cover the Overseas Territories.

Ministry of National Education:

Decree-Law No. 46 980:

Approving the Copyright Code – Repealing Decree No. 13 725, except for Articles 11 and 65 to 68, as well as the regulations on image rights.

GOVERNMENT OF PORTUGUESE GUINEA

Provincial Department of the Treasury and Accounting Services:

Correction.

MINISTRY OF OVERSEAS TERRITORIES

Using the powers granted by No. III of paragraph LXXXIII of the Organizational Law for Portuguese Overseas Territories:

The Government of the Portuguese Republic, through the Ministry of Overseas Territories, orders that:

1. Law No. 46980 of April 27, 1966, approving the Copyright Code, shall be extended to cover the Overseas Territories.
2. Article 207(1) of said Code shall be drafted as follows:

Article 207

1. With regard to the use of the right recognized in Article 202, the holder of copyright may call on the judicial, administrative or police authorities of the place where an infringement of his right is detected, as well as the services or authorities responsible for the inspection of entertainments, to suspend immediately

representations, performances, recitals or any other form of presentation of his intellectual work, including cinematographic work, carried out without due authorization.

2.

The Minister of Overseas Territories, Joaquim Moreira da Silva Cunha.

To be published in the “Official Bulletins” of all the overseas provinces – J. da Silva Cunha.

Government Journal No. 286, 1st Series of December 7, 1971.

MINISTRY OF NATIONAL EDUCATION

Directorate General for Higher Education and Fine Arts

The important issue of copyright, also commonly known as intellectual property, is still fundamentally regulated by Decree No. 13725 of June 6, 1927.

At the time of its publication, this legislation represented significant progress, but understandably over time it became out-dated and the need to replace it has been felt for some time.

Indeed, over the forty years or so that said decree has been in force various events have occurred which have highlighted the need for change. There has been constant progress in terms of the discovery, improvement and commercialization of technical means of supporting or expressing works of the mind and, consequently, specific regulation is required. Furthermore, national legislation must be harmonized with the international texts which have appeared in the meantime. Such texts are the result of cooperation between States, an approach which has become evermore necessary in the field of copyright and which has been highly productive. Without a doubt the Berne Convention, the most significant international instrument in this regard, was already taken into consideration in Decree No. 13 725. However, the Berne Convention was revised on two occasions, Rome, in 1928, and Brussels, in 1948, the latter version being ratified by Decree-Law No. 38 304 of June 16, 1951.

These developments led to the creation, through the decree of June 6, 1946, of a commission tasked with preparing a preliminary draft which would update our national legislation on intellectual property and, most importantly, harmonize it with international law. That commission produced a preliminary draft which the

Government submitted to the Corporative Chamber for an opinion.

The subject was studied in detail and at length and debated by the Corporative Chamber, which finally approved a text on March 24, 1953, before referring the matter back to the Government.

The circumstances at that time did not allow for the draft, the fruit of meticulous work carried out in several stages, to become law.

However, with time, the need for reform only increased. The reasons behind the outdated nature and shortcomings of Decree No. 13 725, which had led to the undertaking of its revision, became more evident as the years passed. Thus, the issue of a new approach in terms of the regulation of copyright became particularly urgent.

It is clear that, fundamentally, the Corporative Chamber’s draft is still an adequate regulatory instrument which, when applied, makes it possible to avoid undesirable delays. The subsequent changes which have taken place in the technical field or in that of international law do not serve as grounds for sidelining this piece of legislation.

With regard to the technical changes, they can either be dealt with through small adjustments or are essentially related to sectors which share many elements in common with copyright. So-called “neighboring rights”, which were the subject of an international convention signed in Rome on October 26, 1961 and which must be addressed in a separate piece of legislation, fall into the latter category.

The Universal Copyright Convention, signed in Geneva on September 6, 1952, stands out among the new international legal instruments and was one of the instruments approved for ratification by a ruling issued by the National Assembly on May 11, 1956. The Convention, the requirements of which were more limited than those of the Berne Convention,, was an attempt to enshrine a minimum of measures that would satisfy all countries without prejudice to the maximal approach of the Berne Convention, which retained its pre-existing scope. Understandably, given the minimal requirements of the new Convention, the Chamber’s draft may be maintained since it already enshrines nearly all the requirements of the Convention, minimal as they may be. Here too, all that is required is a few amendments.

Along the same lines, a revision process was initiated regarding this draft, looking at what was necessary to bring it up to date, with the overriding concern always being that of achieving a more balanced harmonization of the various interests at stake in this fundamental area of national life, in accordance with the opinion of

the Corporative Chamber, which explains this point precisely and at length. There was also the issue of harmonizing the text with the draft of the future Civil Code, purging it of any elements which might be prejudiced by the entry into force of that Code.

Accordingly:

The Corporative Chamber being heard:

Using the powers granted by the first part of paragraph 2 of Article 109 of the Constitution, the Government decrees and I enact the following as law:

Article I.

The Copyright Code, which is an integral part of this decree-law, shall be approved.

Article II.

Decree No. 13 725 of May 27, 1927 shall be repealed, except for the provisions of Article 11 and 65 to 68, as well as the regulations on image rights.

Copyright Code

TITLE I

Intellectual Works and Copyright

CHAPTER I

Intellectual Works

Article 1

1. Creations of the mind, expressed in any form, shall be deemed to be intellectual works.
2. The existence of an intellectual work shall be independent of its disclosure or use, by any method.
3. Successive editions of a work, although corrected and increased or reformulated, even if their titles or formats have been altered, shall not constitute works distinct from the original work, nor shall reproductions of a statue or any other work of art, even though their dimensions may have been changed.

Article 2

The following, among others, shall be deemed intellectual works:

- (a) literary, artistic or scientific texts;

- (b) lectures, lessons, talks, sermons and other works of a similar nature;
- (c) dramatic and dramatico-musical works;
- (d) works of choreography or mime whose staging is set out in written or any other form;
- (e) musical compositions, with or without words;
- (f) cinematographic works and works produced by processes analogous to cinematography;
- (g) works of drawing, painting, architecture, sculpture, engraving and lithography;
- (h) photographic works and works produced by processes analogous to photography;
- (i) works of applied art;
- (j) illustrations and geographical maps;
- (l) plans, sketches and three-dimensional works relating to geography, topography, architecture or sciences.

Article 3

1. The following shall be deemed to be equal to original works, for the purposes of this law, without prejudice to the copyright of the original works:
 - (a) translations, adaptations, transpositions, arrangements, instrumentations, dramatizations and other transformations of any literary, artistic or scientific work;
 - (b) compilations of these works, such as selections, compendia and anthologies which, by reason of the selection or arrangement of their contents, constitute intellectual creations;
 - (c) systematic or annotated compilations of legal texts, ministerial decrees or other decisions of any authorities or of case law.
2. Those who publish manuscripts which exist in libraries or archives, public or private, may not oppose the re-publication of the same manuscripts by others, in accordance with the original text, unless that publication is merely a reproduction of the version of the previous publisher.

CHAPTER II

Copyright

SECTION I

Subject, content and nature of copyright

Article 4

1. The right over an intellectual work, whatever its genre or form of expression, shall be called copyright.
2. Within the limits of the law, the holder of copyright shall have the power to dispose of the work and use it or enjoy it, or to authorize its use or enjoyment by third parties, as a whole or in part.
3. Copyright shall be recognized independently of filing or registration or any other formality and even if the work is not protected in the country of origin.

Article 5

1. Copyright shall include economic rights and rights of a personal nature, known as moral rights.
2. Economic rights shall be transferrable by all means permitted in law; moral rights may only be transferred under the terms of the present law.

Article 6

1. Protection granted to an intellectual work, under the terms of the previous article, shall extend to its title, provided it is original and that it cannot be confused with the title of any other work of the same nature by another author which has previously been disclosed.
2. Such protection shall not apply to the following:
 - (a) titles consisting of a generic, designation or a necessary and habitual designation of the subject matter of works of a certain kinds, such as *Civil Law Treaty*, *Physics Course*, *Compendium of Ethics*, *Trade Law Handbook*, *History of Portugal*, *Commentary on the Civil Code*;
 - (b) titles consisting of the names of historical/mythological figures or characters from historical fiction, such as *Ines de Castro* or *Electra*.
3. Titles of newspapers or any other periodicals shall be protected, provided that they are published regularly and continuously, up to one year after publication of the last issue, except in the case of annual publications

where the period shall be extended to two years.

4. The title of a work not yet published shall not be protected, unless it was registered jointly with the work of which it forms a part and prior to disclosure of any other work of a similar nature known by the same or a similar title.

Article 7

1. Copyright over an intellectual work as an incorporeal object shall be independent of the property right over material objects which serve as instruments or vehicles for its use.
2. Neither the manufacturer nor the acquirer of these objects shall enjoy any of the powers included in copyright, nor shall those powers guarantee the holder of copyright the power to require that the manufacturer or the owner of such objects place those objects at his disposal in order to allow him to exercise his right.

SECTION II

Grant of Copyright

Article 8

1. Copyright shall belong to the intellectual creator of the work.
2. Any entity which merely subsidized the publication, reproduction or conclusion of the work, even if in the public interest, shall not acquire any rights over the work.
3. The fact that a work has been carried out to order or on behalf of another person, or even in fulfillment of official duties or under an employment contract shall not exclude the right of the creator of the work.
4. Where the creator of the work authorizes another party to publish the work, at his expense, the latter shall only acquire the rights to the edition or editions covered by the authorization, with the understanding that, if doubt exists, the right shall only cover one edition.
5. In the cases provided for in the two previous paragraphs the author may not make use of the work in any way prejudicial to the purpose for which it was produced, or to similar purposes

if the body which funded the work is a private, not-for-profit organization or a legal entity under public law; nor may he make use of it in any way prejudicial to the authorized edition or editions.

6. The provisions of paragraphs 3 and 4 shall not apply if something else is otherwise expressly agreed or arises from the terms or conditions of the agreement.

Article 9

1. If it is expressly agreed or arises from the terms or circumstances of the agreement that copyright belongs to the entity which funded or published the work, the creator may not claim anything other than the remuneration set or the actual fact of publication.
2. Where the name of the creator of the work is not mentioned or is not shown in the place chosen for that effect, it shall be deemed that the copyright actually remains the property of the entity referred to.

Article 10

An intellectual work that has been created by a number of persons shall be designated a work of joint authorship, whether it is possible or not to distinguish their individual contributions when it has been disclosed or published in the names of some or all of the co-authors. Works organized on the initiative of a single or collective undertaking and disclosed or published in that undertaking's name shall be designated collective works.

Article 11

1. Copyright for a work of joint authorship as a whole shall be granted to all those who collaborated therein. It shall fall upon all the co-authors to exercise jointly the right concerning the whole work. That exercise shall be governed by the principles concerning common ownership. Unless otherwise stipulated, always in writing, the undivided parts belonging to the co-authors of the work of joint authorship shall be deemed to be of equal value.
2. If the authors of a work of joint authorship do not agree on the way of exercising the rights to that work, the opinion of the majority shall prevail. If no majority opinion is achieved, a

judge shall issue a ruling, at the request of any of the interested parties, having, in all cases, heard the other parties, if there is no need to send letters rogatory.

3. If, through the death of one of the participants in the work of joint authorship, his inheritance should fall into the hands of the State, the copyright in the work as a whole shall remain solely the property of the remaining authors or their heirs or representatives.
4. Where a work of joint authorship is disclosed or published solely in the name of one or several of the authors, in the absence of any explicit indication by all the co-authors in any part of the work, it shall be presumed that the undesignated authors have assigned their rights to the author or authors in whose name(s) the work has been disclosed or published.
5. Any person who has simply assisted the author in the production of the work, revising, amending or up-dating it, or overseeing or directing its publication or its presentation through theatre, film, photography or audio or visual broadcast, shall not be deemed to be a co-author and shall not, therefore, share in the copyright in the work.

Article 12

, Any of the authors of the work of joint authorship may individually exercise his rights related to his individual contribution on the condition that such action does not prejudice the exploitation in common of the work

Article 13

1. Copyright in a collective work shall belong to the single or collective undertaking that organized and directed its creation and in whose name the work was disclosed or published.
2. If, however, it is possible to distinguish the individual contributions of some or all of the authors to a collective work, the provisions on individual contributions to work of joint authorships cited above shall apply.
3. Newspapers and other similar periodicals shall be deemed to be collective works and the copyright therein shall belong to the respective enterprises.

4. Cinematographic works shall not be deemed to be collective works.

Article 14

A work incorporating a pre-existing work with the consent, but without the collaboration of its author, shall be deemed to be a composite work. The rights pertaining to a composite work shall belong exclusively to its author, without prejudice to the rights of the author of the pre-existing work to that work.

Article 15

1. The authors of text, music or artistic compositions that are broadcast shall be deemed to be the authors of the audio or visual broadcast works.
2. The natural or legal persons who take part as performers, producers and technical agents in the broadcast of the work, or who promote the work, shall not be able to claim any right contained in the copyright relating to the work, without prejudice to agreed remuneration, namely on a percentage basis.
3. Broadcast works shall mean those works created for the specific purposes of audio or visual broadcasting, as well as adaptations for audiovisual purposes of works originally created for other uses.
4. The adaptation referred to in the previous paragraph can only be carried out by the author of the pre-existing work, or by another person with his authorization.

Article 16

The authors of recorded text or music shall be deemed to be the authors of phonographic works. The performers, technical agents or producers of a phonographic work may not claim any copyright in relation to the work without prejudice to agreed remuneration, namely on a percentage basis.

Article 17

1. The following persons shall be deemed to be the co-authors of collaborative cinematographic works:
 - (a) the author of the literary, musical or literary-musical plot or theme;
 - (b) the director.

2. In the case of adaptation of a work not specifically created for the cinema, the author of the adaptation shall also be deemed to be co-author of the cinematographic work.

Article 18

The rights of persons who collaborate in the production of the film, in addition to those referred to in the previous article, merely result from the service contract, except for the protection which, in general terms, shall cover intellectual works of their authorship if they are useable independently of the film.

Article 19

The cinematographic subject matter, as well as its cinematographic production and adaptation, shall be deemed to be principal works, and dialogues, words and music shall be considered to be accessory works. The creation of the latter shall be dependent on the written authorization of the authors of the former, who shall approve the choice of authors of accessory works and the respective productions.

SECTION III

Ways of identifying the author – Literary or Artistic Names

Article 20

Unless proven otherwise, the natural or legal person whose name is indicated in the intellectual work as being the author, in accordance with general practice, or who is declared to be the author during a representation, recital, performance or any other use of the work shall be deemed to be so and shall be able to exercise all the rights inherent in this quality.

Article 21

1. The author may indicate his authorship either by using his own name in full or in part, his initials, a pseudonym, or any other conventional symbol; these forms of designation of the author shall be equated to the name, provided that they are well known as the designation of a certain author.
2. The name or pseudonym which the author adopts for this purpose, and which is called a literary or artistic name, must be completely distinct from those previously used by any

other author regarding works of a similar nature, be they registered as such or not.

Article 22

1. If the name, pseudonym or other designation of the author is identical to that of another author who has previously used it in his works, the latter may prevent the former from continuing to use it, forcing him to alter or replace it in order to avoid confusion among the public.
2. Where the author is a relative of another person previously known by the same name, he may make a distinction by adding another name showing the relationship.
3. No author may use names or pseudonyms well known in the history of literature, the arts or science.

Article 23

1. The use of a literary or artistic or any other form of designation of the author contrary to the provisions of the preceding articles shall give the interested parties the right to request, in addition to the ending of such use, compensation for loss and damages, without prejudice to any criminal action for which there might be grounds.
2. However, the author may not be prevented from using his name in everything that does not relate to the intellectual work.

Article 24

1. If the author presents his work under a pseudonym or any other form of designation which does not reveal his identity, or publishes his work anonymously, the party indicated in the work as being the publisher shall be deemed to be the author's representative and shall be responsible for defending the rights of the author against third parties, unless proven otherwise.
2. The author may at any time reveal his identity and authorship of his work. The same right is recognized for his heirs or representatives. If the author or his heirs or representatives should use this power, the publisher shall only be able to enforce the rights resulting from the publishing contract.

SECTION IV

Duration of Copyright

Article 25

The duration of protection granted to the author by this Law in relation to the economic use of literary, artistic or scientific works shall cover the life of the author and 50 years following his death.

Article 26

If the legislation of a foreign country sets a duration for copyright different to that indicated in the preceding article, the duration of protection claimed in Portugal for any work originating in that country shall be that established in the said article, if it does not exceed the duration set in the law of the country of origin of the work.

Article 27

1. In relation to published works, the country of origin shall be deemed to be that of first publication, without prejudice to the provisions of paragraph 5 of Article IV of the Universal Copyright Convention.
2. The definition of "published work" for the purposes of this article shall be that which appears in subparagraph 4 of Article 4 of the Berne Convention.

Article 28

1. If the work was published simultaneously in several countries which grant different copyright durations, in the absence of an applicable international treaty or agreement, the country which grants the shortest duration of protection shall be deemed to be the country of origin.
2. Any and all works which have been published in two or more countries within 30 days of one another, starting from the date of first publication, shall be deemed to have been published simultaneously.

Article 29

In relation to unpublished works, the country of origin shall be deemed to be that to which the author belongs. However, in the case of works of architecture, graphic or plastic arts incorporated in a building, the country of

origin shall be deemed to be that in which those works were built or incorporated into a building.

Article 30

Copyright in a work of joint authorship shall last for the lifetime of its authors and shall continue for 50 years after the death of the last surviving co-author.

Article 31

1. The duration of copyright with regard to the economic use of a collective work, as a whole, shall be 50 years following the first publication or disclosure of the work, an exception being made for the provisions of Article 36 concerning regularly-published works such as newspapers and magazines.
2. If, however, the collective work belongs to an individual operator, copyright shall last for the lifetime of the author and for another 50 years following his death. In the case of transfer by acts *inter vivos* or disposal in executive proceedings, the period of 50 years shall be counted from the events of transfer or disposal.

Article 32

With regard to respective individual contributions of co-authors, the duration of copyright attributed individually to each co-author in works of joint authorship or in collective works shall be that contained in the provisions of Article 25.

Article 33

The duration of protection of posthumous works, to the benefit of the heirs or other successors of the author, shall cease 50 years after the death of the author.

Article 34

The duration of protection of anonymous, cryptic or pseudonymous works shall be 50 years following disclosure or publication; however, if the pseudonym or the initials of the author's name leave no doubt as to his identity, or if the author reveals his identity within the period of 50 years previously referred to, the duration of protection shall be that granted to works disclosed or published under the author's name.

Article 35

The periods of protection beyond the death of the author and those provided for in Articles 31, 33 and 34

shall only commence on January 1 of the year following that in which the death or other events referred to in these Articles occurred.

Article 36

1. If the different parts or volumes of a certain work were published separately and at different times, the periods of legal protection referred to in Articles 31 and 34 shall, under the terms of the previous article, run separately for each of the parts or volumes of the work.
2. The same principle shall apply to issues or installments of collective works published on a regular basis, such as newspapers or magazines.

Article 37

1. A work is said to fall into the public domain, when, for any reason, the exclusive rights guaranteed by law, in general, to the author of the intellectual work, or his successors, expire.
2. Works with regard to which, at the time of entry into force of this Law, the copyright holder benefited from the perpetuity established in Decree No. 13 725, of June 3, 1927, shall not fall into the public domain owing to the expiry of the periods established in Articles 25 et seq. of this Law until 25 years have passed, starting from the publication of this Code.

SECTION V

Transfer of Copyright and Authorization for the Use of the Work

Article 38

The total or partial transfer of copyright may be carried out by the author himself or by the successors, to all or certain of his rights, either personally or through the medium of a duly authorized representative.

Article 39

Total transfer covers all the rights included in copyright, excepting those of a purely personal nature, such as the right to modify the work, in whole or in part, and any other rights expressly excluded by law. Partial transfer is restricted to the forms of use designated in the instrument, whether this designation

is carried out in generic terms or with the powers transferred being specified.

Article 40

1. Simple authorization, granted to a third party, by the author or another holder of the respective right, to exploit the intellectual work in any way shall not imply total or partial transfer of copyright.
2. This authorization may only be granted in writing, on pain of nullity. Unless expressly agreed otherwise, the granting shall not imply exclusive rights and shall be deemed to be subject to payment.

Article 41

Where the author has partially or wholly revised his work and carried out or authorized a form of disclosure *ne varietur*, his heirs may not reproduce the previous versions.

Article 42

1. Where copyright forms part of an estate declared by the State to be vacant, it shall be exempt from the liquidation established under Article 1133(2) of the Civil Code, although the principle established under paragraph 3 of the same Article shall remain applicable.
2. Where the State has not directly used or authorized use of the work by third parties upon the expiry of a period of ten years following the date on which the inheritance was declared vacant, the work shall fall into the public domain.

Article 43

In all matrimonial regimes with community property, the economic rights of the married author over his intellectual works shall be deemed to be his own assets, unless otherwise stipulated in a prenuptial agreement, with only the income from the exploitation of the work being shared.

Article 44

1. On pain of nullity, a public deed must be drawn up regarding contracts for total disposal of copyright relating to one or more intellectual works.

2. Concerning contracts through which the author, or the successors to all or certain of his rights, transfer only some of the rights included in copyright or authorize third parties to use the work by any means of use, written proof shall be sufficient. The contract shall, however, specify the rights to be transferred or the form of use authorized, as well as the conditions governing the exercise of such rights or the use authorized, in particular with regard to the duration and place, and if disposal is carried out in return for payment, the details regarding the price or remuneration.

Article 45

1. In contracts concerning the transfer of copyright or the authorization of use of the work in which general indication of the subject of the contract is given, the acquirer may only exercise the rights acquired or use the work under the terms of and in accordance with legislation existing at the time of the contract, unless the contract contains a clause expressly stating that the acquirer reserves the right to use the work in any new form not foreseeable at the time of the signing of the contract.
2. This provision shall be immediately applicable to acts of disposal or authorization concluded prior to the date of entry into force of this law.

Article 46

1. Disposal of copyright in future works may only apply to works produced by the author within a maximum period of ten years. Where the contract concerns copyright in works produced by the author over a longer period, its effects shall be limited to works effectively produced within a period of ten years, with the remuneration provided for being reduced accordingly.
2. Any contract providing for the disposal of copyright in any future works produced by the author shall be null and void, without any time limit.

Article 47

Copyright may be the subject of legal or voluntary usufruct. Unless otherwise specified, the usufructuary may only use the work the subject of usufruct for any

purpose involving its transformation or modification with the authorization of the holder of the copyright.

Article 48

1. The author's economic rights over all or part of the intellectual works may be offered as collateral against any debt or liability either of the holder of those rights or those of a third party. The offer of collateral provided for in this article can only be carried out through an authentic or authenticated written document.
2. In the case of a sale of collateral, disposal, to be carried out under the terms of the process of sale and award of the collateral, shall apply specifically to the right or rights which the debtor has pledged in respect of the work or works indicated. Collateral established under the terms of this article shall not attribute to the creditor any rights concerning the existing copies of the work with regard to which the right was offered as collateral.

Article 49

An author's economic rights in all or some of his works may be the subject of seizure or attachment, any auctions being carried out in accordance with the provisions of Article 48 regarding the sale of collateral.

Article 50

1. Unpublished manuscripts and unfinished sketches, drawings, paintings or sculptures, whether signed or not, shall be exempt from seizure; the author may offer them as collateral, under general terms.
2. If, however, the author should have revealed, by unmistakable acts, his intention to disclose and publish the works referred to in this article, the creditor may effect seizure or attachment over the copyright of the same.

Article 51

The seizure and attachment of copyright in a determined work shall not deprive the author, in the case of it being published at the instigation of the bidder, of the right to revise the proofs and to correct the work, nor shall they generally affect his moral rights in relation to the work. However, if the author should retain the proofs for longer than 30 days

without justification, publication may be undertaken without his revision.

Article 52

1. Where the assignee of the copyright in a certain work that has already been disclosed refuses to re-publish that work or to authorize its re-publication, once the work is out of print, any interested party may seek legal authorization to re-publish it.
2. Authorization shall be granted on the condition that it can be demonstrated that re-publication of the work is in the public interest and that the refusal was not based on admissible moral or material grounds.
3. The owner of the copyright shall not be deprived of that copyright and may undertake or authorize future editions.
4. If the work goes out of print again, any interested party may at any time seek legal authorization to proceed with a new edition.

Article 53

1. The process referred to in the previous article shall be in conformity, in so far as possible, with the provisions of Articles 1425 to 1427 of the Code of Civil Procedure.
2. Appeals, which shall have suspensive effect, against the decision, may be lodged with the Court of Appeal, which shall issue a final ruling..
3. If authorization is granted and the parties do not agree on the amount which the rights holder should receive as copyright, this amount shall be set by the court, at the request of either of the parties.
4. The court shall set the amount in such a way as to compensate the winner for the legal costs incurred.

Article 54

Copyright may not be acquired once it has lapsed.

SECTION VI

Moral Rights

Article 55

Independently of rights of an economic nature, and even if those rights have been disposed of, the author

of the intellectual work shall throughout his lifetime enjoy the right to claim authorship of his work and to ensure its integrity by opposing the distortion, mutilation or other modification thereof and, in general, opposing any act which denatures the work and is liable to be prejudicial to his honor and reputation.

Article 56

Where a work is executed according to a design drawn up by an architect, approved by the proprietor of the work, should the proprietor, either during the execution of the work or following its completion, introduce any alterations without the consent of the project's author, the latter may repudiate authorship of the modified work and the proprietor shall be prohibited from invoking, for his own benefit, the name of the author of the initial project.

Article 57

1. The right referred to in Article 55 shall be inalienable and imprescriptible, but following the death of the author the right to exercise it, if it has not fallen into the public domain, it shall pass to his heirs and representatives.
2. The defense of the integrity and authenticity of a work which has fallen into the public domain shall fall to the State, which shall exercise it through suitable cultural institutions.

SECTION VII

Right of withdrawal and resale right

Article 58

1. The author of an intellectual work that has already been disclosed in any form may, at any time, withdraw it from circulation and have its exploitation halted, recalling all copies of the edition, suspending authorization for its representation or performance or preventing its use in any other way, provided he compensates the interested parties for the prejudice caused.
2. In the absence of agreement on the existence of prejudice or on the amount due as a result of prejudice, the matter shall be decided by the competent judge, the amount of damages to be paid being set through arbitration.

Article 59

1. An author who has disposed of an original work of art or an original manuscript or the copyright in an intellectual work shall have the right to a share in the increase in their value, provided that they have been sold on and the vendor has benefitted from a substantial increase in the price. This right may not be renounced and shall be inalienable.
2. The share shall consist of a percentage of the increase in price obtained, which shall be of 10 per cent on sales of up to 10,000\$ and 20 per cent for sales above that figure.
3. The provisions of this Article shall not apply if the increase in price provided for therein is merely the result of currency devaluation.

Article 60

1. Where an author, who has disposed of the right to exploit a given intellectual work in return for payment suffers significant prejudice due to insufficient forecast of the probable profits of that exploitation, the proceeds he receives being clearly disproportionate to the profits earned by the acquirer of those rights, he may claim additional compensation. This compensation shall be set by a judge, following expert evaluation of the results of the exploitation.
2. This compensation may only be demanded if disposal was carried out for a fixed sum, paid in one single installment or in periodic installments, or, in the event that the author's remuneration is in the form of a share in the profits from the exploitation if this share was not established in accordance with the customary methods for transactions of this nature.
3. When assessing the damages claimed by the author, the normal results of exploitation of the whole of the author's works shall be taken into account. The judge may order any measures he sees fit in the interests of a fair decision.

TITLE II

Use of Intellectual Works

CHAPTER I

General Provisions

Article 61

1. The exclusive right to enjoy and use the intellectual work recognized in Article 4 shall include the right to disclose and exploit it economically in any direct or indirect form under the terms and within the limitations of this law.
2. From an economic point of view, the guarantee of the pecuniary benefits resulting from such exploitation shall constitute the fundamental matter covered by the legal protection which derives from the copyright.

Article 62

1. According to its type and nature, the intellectual work may be used or exploited in any form, whether currently known or unknown. To that end, the author shall, *inter alia*, enjoy the exclusive right to carry out or to authorize the following actions:
 1. publication, by printing or by any other method, of graphic reproduction;
 2. performance, recital, execution, exhibition or display to the public;
 3. cinematographic reproduction, adaptation, performance, execution and distribution;
 4. fixing, or adapting to any apparatus destined for the mechanical, electrical or chemical reproduction of the work and its performance, broadcast or rebroadcast to the public by such means;
 5. broadcast by photography, telephotography, television, radio or by any other process of reproduction of signals, sounds or images, as well as public communication by loudspeaker or similar instruments, by wire or wireless means, of the broadcast work, when such communication is carried out by an organization other than the original one;
 6. any form of indirect appropriation;
 7. translation and adaptation into a language different from that in which the original work was created;
 8. transformation, alteration, arrangement, instrumentation, extension or mere use in another work;

9. total or partial reproduction by any means.
2. The various forms of use or exploitation of the intellectual work shall be independent of one another and the exercise of any of them by the author or by a duly-authorized person shall not prejudice the exercise of the remaining forms by the author or by third parties.

Article 63

In accordance with established use, the reproduction of extracts of works which have not yet fallen into the public domain by public entities, libraries, archives and scientific institutions, for their own use or for the private use of those requesting them shall be permitted. The users must however, be expressly warned that these reproductions may not be used commercially without the consent of the authors.

Article 64

1. The owner of the copyright shall have the exclusive right to select freely the procedures and conditions of the intellectual work's use and exploitation.
2. In the case of the death of the author or if he has been absent for over 20 years, or if the absent author would have reached the age of 95, it shall fall to the heirs, recognized or presumed, of the author to decide on the use of his as yet undisclosed works, unless their disclosure or exploitation has been prohibited in any way.
3. Should it be decided to use the work, the heirs may do so directly, or they may authorize a third party to do so, indicating or not the processes and conditions of use. If there is disagreement between the heirs with regard to the disclosure or form of use of the work, the majority opinion shall prevail; if there is a stalemate, the judge in the place where the estate was opened shall decide at the request of any of the interested parties.

Article 65

1. The heirs or representatives of the author who use a posthumous work, or authorize its use, by any means, shall have the same rights regarding the works as would have belonged to the deceased if he had used the work or authorized its use while alive.

2. If the power to use the work should not be exercised within the fifteen years following the author's death, these rights shall expire. An exception shall be made in the case of delayed disclosure for grave reasons of a moral nature which a tribunal could take into consideration if litigation arose.

Article 66

The powers relating to the use of copyright may be exercised personally by the holder of the copyright or through his representatives, either legal or voluntary.

Article 67

1. National and foreign associations set up to administer and defend copyright and authors' interests shall carry out that function as the mandatories of the authors, owing to the authors' status as members or their registration, regarding any designation, as beneficiaries of the service provided by those same associations.
2. The membership or registration as a beneficiary referred to in this article must appear in the public register.

Article 68

The legal representatives of minors and individuals under legal restraint cannot use or authorize the use of the intellectual works of their charges, unless a contract exists that was concluded prior to the onset of mental health issues or the issuing of the legal restraining order, or unless they have the consent of the minor, who must be at least 18 years of age, or of the individual under legal restraint, on the condition that he is capable of rational thought..

Article 69

1. Minors and individuals under legal restraint shall be represented by their parents or guardians in the exercise of copyright, both in and out of court.
2. Individuals declared bankrupt or placed under legal restraint owing to overspending may use their works without authorization, except with regard to the economic exploitation of those works; they may, however, freely dispose of the material benefits arising from that exploitation to the extent that those benefits are necessary to ensure their subsistence and that of their dependents.

Article 70

1. A married woman may publish and use, in any way, her works, independently of her husband's authorization.
2. If, however, the publication or use of the work of either of the spouses is liable to produce a scandal which affects the other spouse, the latter may oppose publication or use. If publication/use has already taken place, the spouse concerned may call for the necessary measures to be taken to end the scandal, namely requesting the seizure of the copies published and the suspension of the performance or any other form of use of the work.

CHAPTER II

Publication of works and publishing contracts

Article 71

1. The author of any literary, artistic or scientific work may publish it directly of his own accord, by means of printing or any graphic process destined to communicate it to the public by the multiplication of copies of the work, producing or ordering the production of these copies. He may also authorize another person to undertake, of his own accord, publication under terms agreed on by both parties.
2. Any work of basic or essential Portuguese shall require the authorization of the Ministry for National Education for publication.

Article 72

1. The contract through which the holder of copyright in a work grants another party, subject to the conditions stipulated in the contract, authorization to produce, of his own accord, a specified number of copies of a work, the beneficiary being responsible for the distribution and sale of the work or works, shall be known as a "publishing contract".
2. The publishing contract shall not be assumed to be free of charge; and the publisher may not invoke, through the contract, any advantage, with regard to the content and duration of authorization implied in the contract, which

might arise from any law regulating copyright published after the signing of that contract.

Article 73

Publishing contracts shall not imply the permanent or temporary transfer to the publisher of the author's right to publish the work, but shall solely imply the granting of authorization to reproduce the work in accordance with the specific terms of the contract.

Article 74

Authorization to publish shall not give the publisher the right to translate, transform or adapt the work to other forms of use, nor shall it give him any other power other than that included in the said contract or arising from the nature of that contract.

Article 75

1. An agreement whereby the holder of copyright in a work commissions another party to produce, of his own accord, a set number of copies of that work and to ensure its distribution and sale and whereby the parties agree to divide between them the profits or losses of the exploitation shall not be deemed to be a publishing contract.
2. This contract shall be subject to current commercial practices and, secondarily, to the requirements relating to joint ventures, as well as to the special stipulations it contains.

Article 76

1. The following shall also not be deemed to be publishing contracts:
 - (a) an agreement under which a person undertakes, against payment of a certain amount by the holder of the copyright in a work, to produce a certain number of copies of that work under the conditions stipulated and to ensure their distribution and sale on behalf of the copyright holder;
 - (b) an agreement by which the holder of the copyright in a work, has a certain number of copies of that work produced of his own accord, merely commissioning the other party to store, distribute and sell those copies,

through payment of a set commission or any other form of remuneration;
(c) any agreement solely setting the fixed or proportional remuneration to be paid to the entity commissioned to reproduce, distribute and sell the copies of the work, with all risks being undertaken by the copyright holder.

2. These contracts shall be governed by the legal provisions contained therein, by the legal provisions relating to service provision contracts and by current commercial practice.

Article 77

1. Publishing contracts shall only be valid if they are drawn up in writing and they must always contain mention of the number of copies to be printed.
2. Where the publisher produces fewer copies than the number agreed upon, he may be compelled to make good the number; if he fails to do so, the author may commission a third party to produce the number of copies missing, at the publisher's expense, without prejudice to his right to demand compensation for loss and damages from the publisher.
3. Where the publisher produces a number of copies greater than that agreed upon, the owner of the copyright may have the additional copies seized and take possession of them, the publisher forfeiting the cost of such copies.
4. The author shall have the right to verify, by any means, the number of copies published. He shall also have the specific right to request an audit of the publisher's books, or of those of the enterprise producing the copies should it not belong to the publisher.

Article 78

1. The author's remuneration shall be that specifically set out in the publishing contract and it may consist either of a fixed quantity or price to be paid for the edition as a whole, a percentage of the price of each copy, the attribution of a certain number of copies, or payment on some other basis, according to the nature of the work. Alternatively, a combination of a number of these forms of remuneration may be used.

2. In the absence of any stipulation regarding his remuneration, the author shall be entitled to one third of the proceeds from each copy sold.

Article 79

In the absence of any special agreement to the contrary, the cost of publication shall be liable to be paid following completion of publication, unless the form of remuneration adopted makes payment dependent upon subsequent circumstances, in particular, the total or partial placement on the market of the copies produced.

Article 80

1. Where the remuneration due to the author depends on the results of sales, or is dependent on the development of sales, the publisher shall present his accounts to the author every six months, making available to him those elements of his books essential for the proper verification of the same.
2. Where the publisher does not voluntarily fulfill this obligation, judicial proceedings shall be initiated to ensure that the accounts are made available and the audit of the books shall be ordered following a simple request by the author setting out the reasons why it is necessary.

Article 81

The publishing contract, unless otherwise agreed, shall prohibit the author from producing a new edition of the same work, either himself or with another publisher, in the same language, either in the country or abroad, until the previous edition is out of print or the period set in the contract for that effect has expired.

Article 82

The holder of the copyright must guarantee to the publisher the exercise of rights deriving from the publishing contract in the face of obstacles and confusion arising from the rights of third parties in the work to which the contract refers, but not in the face of obstacles and confusion simply engendered by the mere existence of a third party.

Article 83

1. The author must furnish the publisher with the means necessary to fulfill the contract, in

particular, by returning, within the agreed period, the original version of the work to be published in a way that enables the publisher to reproduce it.

2. Unless otherwise agreed, the original version shall be the property of the author and he shall have the right to require its return. In the absence of a specific provision, this process of restitution shall be carried out once the work has been reproduced and must be concluded within two months of completion of the reproduction.

Article 84

1. The publisher shall be obliged to carry out, or have carried out, the reproduction of the work in accordance with the form and conditions set out in the contract. He may not, without the express written consent of the author, introduce any modification to the work to be published; where this provision is violated, the author shall have the right to have the edition seized and to claim compensation for loss and damages.
2. However, up-dating of spelling in accordance with the official rules in force at the time of publication of the work shall not be deemed to be modification of the work.

Article 85

The principle enshrined in the previous article shall not prevent a publisher of dictionaries, encyclopedias, and other didactic works, after the death of the author, and with the authorization of his successors, from updating or completing them by means of notes and minor changes to the text. Nor shall the principle referred to prejudice the right of the publisher to require the author or his successors and representatives to delete passages or images which are contrary to public morality, insofar as he may be liable for their disclosure.

Article 86

Unless otherwise expressly agreed, the publisher shall ensure that each copy of the work bears the name, or pseudonym of the author or another identifying sign.

Article 87

1. In the absence of express agreement in the contrary, the publisher must begin reproduction of the literary, scientific or artistic work within six months of delivery of the original work by the author and must continue to carry out reproduction regularly or otherwise face liability for loss and damages.
2. Where the publisher, having started the reproduction, should delay excessively, without justification, its completion, the author may have legal notice served on him ordering him to conclude the reproduction within the period allocated.
3. Where the work deals with a subject of significant topical interest, or is of such a nature that any delay in publication would detract from its literary or scientific interest or timeliness, the publisher shall be obliged to commence reproduction immediately and to terminate it within a period deemed to be reasonable, given the size and nature of the work.
4. Where the author unjustifiably delays delivery of the original version so that the expectations of the publisher are jeopardized, the latter may, in any case, cancel the contract, without prejudice to any claim for compensation for damages and loss.

Article 88

The publisher must take the necessary care with regard to publication so that reproduction can be carried out in accordance with the conditions agreed upon. He shall also promote the placement of the copies produced on the market with the diligence normal to commerce.

Article 89

1. The price of each copy shall be set initially by the publisher, with prior notification of the author. Price changes shall only be introduced by agreement between the author and the publisher, unless they are the result of currency depreciation, or of discount sales in accordance with the terms of the following article.
2. It shall not be compulsory to mention the sale price either in the publishing contract, or on the copies of the work.

Article 90

Where a work has not been placed within ten years of the date of publication, for the price set, the publisher shall have the power to remainder the existing copies or to destroy them for sale by weight. The publisher must, however, consult with the author beforehand, giving him the opportunity to acquire the books for a price fixed on the basis of profit forecasts for remaindered sales or destruction.

Article 91

Publishing contracts may have as their subject one or more existing or future, unpublished or published works.

Article 92

1. The publisher shall provide the author with at least two sets of galley proofs and two sets of page proofs, including the cover page. In turn, having reviewed and corrected the pages, the author shall return them, within the time period necessary for such a purpose.
2. Printing may not be carried out without authorization being given by the author in the usual manner.

Article 93

Where the publisher or author delays providing or returning the proofs beyond the period considered normal, depending on the circumstances, either one of them may notify the other by registered letter with acknowledgment of receipt, of the obligation respectively to provide or return the proofs within a certain time period. Any claim for damages and loss as a result of delayed publication shall be dependent upon this notification.

Article 94

1. The costs of simple typographical corrections and those of small changes to the original text provided to the publisher shall be borne by the publisher.
2. However, unless otherwise agreed, if, at the printing stage, the author should make changes or additions to the text that entail a significant increase in the publisher's costs, the latter may charge the author for the increase in expenses in excess of 10 per cent.

Article 95

1. An author who has concluded contracts with one or more publishers for the separate publication of each of his works shall have the power to conclude a contract for the publication of a complete edition of his works. The existence of such a contract shall not authorize the publisher to publish works contained therein separately and shall not affect the author's right to conclude contracts for the separate publication of any of those works.
2. However, any author who exercises any of these rights must do so in such a way that the benefits specifically guaranteed to the publisher in the earlier contract are not affected by the subsequent contract.

Article 96

1. Under penalty of being liable for damages, a publisher who undertakes to publish successive editions of a work shall publish them uninterruptedly so that copies are always available on the market. Cases of *force majeure* may constitute an exception, however, lack of financial resources to cover the cost of the new publication or increases in such costs shall not constitute cases of *force majeure*.
2. Where, in the case of editions covered by the contract, the author has substantially modified the work by up-dating or adding to the material contained therein, he shall have the right to fair remuneration, to be paid by the publisher.

Article 97

Stamps, engravings, plates and other similar materials made especially for the published work shall be deemed to be the property of the publisher, but the author shall always have the right to acquire them by paying the publisher for the costs of having them made.

Article 98

Where a publishing contract relates to works not yet created, the following principles shall apply:

- (a) a contract which covers all of the author's future works shall be null and void if a deadline is not set for their production. Where the time limit stipulated is greater than ten years, the publishing contract shall be limited only to those works produced by the author within the ten-year

period, with a due proportional reduction in the remuneration stipulated;

- (b) where publication of a future work has been agreed without the contract specifying a time limit for handing the work over to the publisher, the latter shall have the right to request the legal authorities to set a time limit for this purpose. The time limit set in the contract may be legally extended by a judge at the author's request, on the condition that valid grounds exist for such an extension;
- (c) where the work the subject of the contract is to be written in tandem with publication in volumes or installments, the contract shall specify approximately the number and length of the volumes or installments; with regard to the length, a margin of 10% shall be allowed, unless otherwise agreed. Where the author exceeds the limits mentioned without the prior consent of the publisher, he shall not have any right to additional payment and the publisher may refuse to publish the additional volumes, installments or pages. The author shall, however, retain the right to cancel the contract, compensating the publisher for the expenditure incurred and the anticipated profits. Where the work has already been sold in part, compensation shall be calculated on the basis of the sales to-date.
- (d) where the author dies or is unable to complete his work after having handed over a substantial part thereof which could be published separately, the publisher may choose to cancel the contract or to deem it to be fulfilled in respect of the part handed over, paying the author or his heirs and representatives proportional remuneration, unless the author, his heirs or representative express the desire that the work should not be published incomplete. Should the contract be cancelled at the request of the author, his heirs or representatives, the incomplete work may not be published by a third party, on pain of payment of compensation for loss and damages.

Article 99

1. Without the author's consent, the publisher may not yield or transfer his rights under the publishing contract to third parties, either for free or against payment, unless the transfer is the result of the publisher transferring his

exercise of commercial activities to another party.

2. In this case the author shall have the right to compensation for damages, material or moral, resulting from the operation carried out.
3. The formation of the publisher's share in any commercial venture using the rights arising from the publishing contract, shall, under the terms of this Article and thus dependent on the consent of the author, be deemed to be assignment of those rights.
4. The award of the rights deriving from the publishing contract to any of the partners in the publishing company as a result of its liquidation, with or without court supervision, shall not be deemed to be the transfer of such rights.

Article 100

Publishing contracts may be cancelled:

1. in the event of the bankruptcy of the publisher, unless within a period of six months, from the date of the declaration of bankruptcy, it should be decided under the terms of Article 1197 of the Code of Civil Procedure that the contracts concluded by the bankrupt party should be honored, or where, within the same time period, the entire establishment is handed over to another party;
2. where, at the death of the individual publisher, his establishment does not continue with one or several of his successors;
3. where, duly notified by the author to complete the work, the publisher does not do so within the reasonable period defined by the judge;
4. where the author dies or is unable to complete his work, as set out in Article 98(d), and in the other cases specifically provided for by this law.

Article 101

Where, in order to realize assets in a publisher's bankruptcy process it should be necessary to proceed to sell, for a low price, the publisher's stock of copies of the published work, as a whole or in large lots, the bankruptcy administrator must notify the author of this fact at least fifteen days in advance. Such notice shall be given in order to allow the author to take the measures he deems suitable for the protection of his material and moral rights. In addition, the author shall have the preferential right over the purchase, at the highest price reached, of the copies put up for auction.

CHAPTER III

Performance, recitation and representation

SECTION I

Performance

Article 102

For the purposes of this Law, performance shall mean the staging before an audience of a dramatic, dramatico-musical, choreographic or pantomime work or other similar work, by means of dramatic fiction, song, dance, music or other appropriate means.

Article 103

1. The use of an intellectual work for performance shall always be subject to the author's consent, whether the performance is public or private, whether or not an entrance fee is charged and whether or not the performance is for profit.
2. Where the work has already been disclosed in any form by the author it may be performed without his special authorization, on the condition that that it is staged on a not-for-profit basis and in a family home.

Article 104

The performance contract, by which the author or the successors to all or certain of his rights authorize an individual or collective undertaking to promote the performance of the work under certain conditions stipulated in the same contract, the latter undertaking to have the work performed in accordance with the agreed conditions, shall be drawn up in writing and shall be governed by the special provisions contained in the present section.

Article 105

1. The performance contract, unless otherwise agreed, shall not give the undertaking the exclusive right of direct communication of the work by this means; and the company may not carry out the performance in a manner differing from that provided for in the contract.
2. The granting of the right to perform certain works shall not be presumed to be free of charge and may be for a set or indefinite period of time, for a set or unlimited number of shows, for one or more locations, for one or more theatres or venues suitable for performance, or limited and defined in any other way.
3. The granting of the performance right to amateurs shall be presumed to be free of charge.

4. The performance contract shall include the conditions of payment, in addition to the remuneration due to the author(s).

Article 106

Where performance of a work that requires a license, authorization or clearance from the authorities, in order to obtain said authorization/clearance the competent authority shall be given documentary proof that the author has agreed to the performance of the work.

Article 107

1. In cases of performance of an intellectual work without the authorization of the author or his successors, the author/successors shall have the right to have the performance halted immediately and to claim compensation for loss and damages, without prejudice to any criminal action arising from the infringement. The same shall apply to a performance which has prior authorization but which is not staged in accordance with the conditions under which it was authorized.
2. The gross revenue resulting from the show or shows shall always be taken into account when calculating damages.

Article 108

1. The author's remuneration for granting the right to perform a work may consist of a flat fee payment, a percentage of the revenue from performances, a certain sum for each show, or may be determined in any other form laid down in the contract.
2. Payment of the author's remuneration shall be made under the terms and deadlines laid down in the contract and, unless otherwise agreed, where the author's remuneration is determined by the revenue from performances, it shall be paid on the day following that of the respective performances.
3. Where remuneration is determined by the revenue from each performance, the author or his representative shall have the right to verify the corresponding receipts.
4. Where the impresario falsifies the statement of receipts provided to the author, or uses other fraudulent methods to conceal the true results of his exploitation from the author, he shall be liable to the penalties set out in Articles 219 and 451 of the Penal Code and the author shall have the right to cancel the contract.

Article 109

Unless otherwise stipulated, the performance contract shall give the author the right to:

1. introduce into the work, independently of the other party's consent, the changes he deems necessary, provided that they do not prejudice its general structure or detract from its dramatic or theatrical interest;
2. be consulted regarding casting;
3. attend rehearsals and give the necessary indications regarding interpretation;
4. be consulted regarding the choice of artistic collaborators;
5. object to performances with regard to which he considers that there have not been sufficient rehearsals to ensure success. Should the author abuse this power and postpone the performance without any grounds, he shall be liable for loss and damages;
6. verify the performance himself or through his representative, for which purpose they shall have free access to the premises during the performance.

Article 110

Where it has been agreed in the contract that performance of the work shall be entrusted to specific actors or performers, their replacement may only take place with the consent of the contracting parties.

Article 111

1. Under the contract, the impresario shall undertake to have the work performed in public within the agreed period, and in the absence of any agreed period, within a period of one year from the date of signature of the contract, except in the case of dramatico-musical works where the period shall be two years. Failure to meet this obligation shall give the author the right to cancel the contract and claim compensation for loss and damages. Exception shall be made for prohibition by the authorities or any other case of *force majeure*.
2. Moreover, the impresario must hold the rehearsals necessary to ensure the staging of the work under appropriate technical conditions and, in general, make every effort customary in such circumstances to ensure the success of the performance.

Article 112

The impresario must have the work performed according to the text provided by the author and he may not make any changes, such as deletions, substitutions or additions, without the author's express consent. An exception shall be made in instances

where the authorities have demanded the deletion of elements of the text. In such cases the impresario may call on the author to comply with the decision of the authorities.

Article 113

Where a work has never been performed or reproduced in any form, the impresario must ensure that it does not become known before the first performance, without prejudice to its communication to the authorities under the terms of the law.

Article 114

The impresario must indicate clearly and in visual form on the programs, posters and any other forms of publicity, the name, pseudonym or other identifying sign adopted by the author.

Article 115

1. In order for the performance of the work to be transmitted by audio or visual broadcasting, or by any other similar process, the express written consent of the author of the work must be obtained, as well as the authorization of the show's impresario.
2. The same principle shall apply to the filming of the show or its phonographic recording, in whole or in part.

Article 116

The impresario may not yield or transfer rights deriving from the performance contract to third parties without the author's consent.

Article 117

Performance contracts may be cancelled in the cases already referred to and in the following cases:

- (a) at the request of the author, in the event of death, bankruptcy, a court order issued owing to the onset of mental illness or because of profligacy on the part of the impresario;
- (b) at the request of the impresario.
 1. in cases where the public obviously and continuously dislikes the performances;
 2. in cases of suspension or prohibition of the performance by the authorities;
 3. if the work covered by the performance contract is incomplete or not started, in the event of the author's death or physical or mental incapacity which prevents the conclusion of the work or creates excessive delay in the delivery of the same.

Article 118

An author who has concluded a performance contract regarding an undisclosed work may publish it, by means of printing or by any other process of reproduction, unless otherwise agreed with the impresario.

SECTION II

Recital and Performance

Article 119

1. The recital of literary works and the performance, using instruments or instruments together with singers, of a musical or literary-musical work shall be deemed to be performances within the meaning of Article 102. The rules contained in the articles of the preceding section shall apply to contracts signed for the recital or performance of such works, provided that they are compatible with the nature of the work and its presentation and the provisions of the following articles.
2. The recital, rendering and or expressive reading in public of a literary work by a single individual shall be deemed to be recital.

Article 120

1. The body which promotes or organizes the performance or recital of a literary, musical, or literary-musical work, before a public audience, must display the corresponding program at the venue in advance, displaying the title of the work and the name of its author..
2. One copy of this program must be provided to the organization or organizations representing the author or the agents of such organizations if they are based in the area.

Article 121

1. Where the body promoting the performance or recital draws up a fraudulent program, in particular, by including works that it does not intend to have performed or recited, and by performing or reciting unannounced works in their place, or where, during the performance, due to reasons that do not constitute unforeseeable circumstances or *force majeure*, the performance or recital of the works included in the program is halted, the authors whose moral and material interests have been harmed may claim compensation for loss and

damages from said body, without prejudice to any potential criminal liability.

2. The organizers shall not be liable in instances where performers respond to insistent requests by the audience for the performance or recital of works other than those referred to in the program. In the event of the performance or recital of works in the circumstances referred to, payment of the corresponding copyright may not be demanded from the organizing body.
3. Regarding the verification referred to in Article 109(6), interested parties may request the intervention of any authority, and in particular of the Inspectorate of Entertainments.

CHAPTER IV

Use of Cinematographic Works

Article 122

1. The cinematographic production, with or without sound, of any intellectual work created for the cinema shall always depend on the special authorization granted by the author or authors or the successors to all or certain of their rights. This authorization must be given in writing and entitles the body which obtains it to produce the negative for editing, and the corresponding positives or copies under the agreed conditions.
2. For a work which was not created for this form of expression, its adaptation to film shall also depend on the written authorization of the author of the original work.
3. Unless otherwise provided for, authorization for cinematographic production shall imply authorization for the presentation of the film by means of projection apparatus, as well as for its economic exploitation by this means.
4. The beneficiary of authorization to screen the film may distribute it, if he is authorized to do so by the author or authors of the work.

Article 123

The text of the authorizations requested must include in particular all the conditions under which the right to produce, distribute or screen the cinematographic film is granted. The contract for authorization of cinematographic production shall be subject to the provisions relating to publishing contracts, compliance with which shall not be prejudiced by the particular nature of this form of use of the work or by the special precepts set out in this chapter.

Article 124

1. Unless otherwise agreed, the authorization given by the author or authors of a work concerning its cinematographic production, whether it has been specially created for this form of expression or has been adapted, shall not imply the granting of exclusive rights to the body in receipt of authorization.
2. Where no specific clause exists to the contrary, the exclusive rights granted for cinematographic production shall lapse seven years after conclusion of the corresponding contract, without prejudice, however, to the right of the party to whom the economic exploitation of the film has been granted to continue to screen it.

Article 125

Where the author or authors has/have specifically or implicitly authorized the screening of the film, the exercise of the economic exploitation rights for the cinematographic work shall belong to the producer. The producer shall be deemed to be the person or body undertaking and organizing the production of the work, taking technical and financial responsibility for the complex task of the making of the film. The producer shall be identified as such in the film.

Article 126

During the period of exploitation provided for in the contract, unless the author or authors has/have otherwise provided for the defense of his/their rights in the cinematographic work, the producer shall be deemed to be their representative for this purpose and he shall be answerable to the author/authors concerning the way in which he carries out his mandate.

Article 127

1. The producer shall be free to have inserted into the works used in the cinematographic creation the modifications required by the demands of the technique, in so far as they do not change the essence of the work.
2. Where agreement is not reached between one or some of the authors referred to in Article 17 and the producer on the need for modifications or on specific modifications proposed by the latter, the issue shall be definitively resolved by three experts. One expert shall be nominated by the author or authors of whom the modification is requested, another by the producer and the third by the judge responsible

for the area in which the production company is domiciled.

Article 128

1. Translations, transformations and dubbing into other languages of the film shall also depend on the written authorization of its author/authors; the producer may not screen such versions without special authorization for that purpose.
2. Sound or visual broadcasts of the corresponding film, trailer, or tapes or disks of extracts of the film, shall also be dependent on the authorization of the author or authors of the cinematographic work.

Article 129

Unless otherwise specifically agreed, the producer who has concluded the contract with the author/authors may enter into partnership with another producer in order to ensure the execution and exploitation of the cinematographic work. The producer may also at any time transfer rights deriving from the contract to a third party; however, he shall continue to have a responsibility towards the author regarding the strict fulfillment of the contract.

Article 130

The authors of cinematographic works shall have the right to require that their names be displayed during the screening of the film, together with an indication of their individual contributions to the work in question.

Article 131

Where the cinematographic work is an adaptation of a pre-existing work, it shall mention the latter's title, as well as the author's name, pseudonym, or any other identifying sign.

Article 132

Authors of the literary and musical parts of a cinematographic work may reproduce and use these parts separately in any way, provided that this does not prejudice the exploitation of the work as a whole.

Article 133

Where the producer fails to complete production of the cinematographic work within a period of three years from the date of the handing over of the literary and musical parts, or fails to have the finished film screened within a period of three years from the date of

its completion, the authors of said parts shall have the right to dispose freely of those parts.

Article 134

The producer shall only be obliged to make copies of prints of the cinematographic work as and when these are requested by distributors or by companies running cinemas.

Article 135

Unless specifically agreed otherwise, the producer of a film shall not be free to sell the copies produced at reduced prices or to destroy copies on the grounds that there is no demand for them.

Article 136

The provisions of this Chapter shall also apply to works produced by any process analogous to cinematography.

CHAPTER V

Phonographic Recording and Fixing and Reproduction by mechanical and other means

Article 137

1. The recording or fixing of an intellectual work for adaptation to any apparatus intended for mechanical, electrical or chemical reproduction, or reproduction by any other process, shall always be dependent on the particular authorization of the author or the successors to all or certain of his rights.
2. This authorization must be given in writing and shall only allow the recipient to record or fix the work and to sell the copies produced; unless expressly stipulated, it shall not attribute the right to present the recorded or fixed work in public, or to broadcast or transmit it in any way.
3. Authorization to present the recorded or fixed work in public, or to broadcast or transmit it in any way, must also be given in writing, and it may be attributed to an entity other than that authorized to record or fix the work.

Article 138

1. For the purposes of this Law, the material carrier on which the literary, scientific or musical work is recorded or fixed and which serves as the vehicle for its sound transmission, shall be named phonogram. The

act of recording or fixing for this transmission shall be named phonographic recording.

2. Phonograms are gramophone rolls or disks, the corresponding matrices, the metallic sheets, the plates, the magnetic bands and wires and rolls for music boxes and pianolas.
3. Phonograms shall display the title of the work or some means of identifying it, as well as the name or other identifying sign of the author, either directly printed on them or on labels.

Article 139

The provisions of the present Law on publishing contracts which are not excluded by the different nature of the method of reproduction of the work and by the precepts of the following articles shall apply to authorization contracts for phonographic recordings.

Article 140

Unless otherwise agreed, contracts authorizing phonographic recording shall not attribute to the authorized entity the exclusive right to manufacture and sell the phonogram of the work.

Article 141

Entities with which a contract for phonographic fixing has been concluded may not transfer the rights deriving from the contract of authorization to third parties or transfer the original recording without the author's consent, except in the case of transfer of the exercise of trading activities.

Article 142

The manufacturer of the phonogram may not, even on the basis of needs of a technical nature, make any change to the work to be recorded which fails to respect or affects the nature of the work and which may in any way harm the moral rights of the author.

Article 143

The purchase on the market of a copy of the phonographic work shall not give the purchaser the right to use that copy for any public broadcasting purposes whatsoever.

Article 144

Phonograms produced in violation of the precepts contained in this Chapter or introduced into Portuguese territory, if produced in violation of precepts in force in the country where the recording was executed, may be seized at the request of the interested parties.

Article 145

The adaptation, arrangement or any other transformation of a work for the purposes of its recording, transmission, or presentation by mechanical or phonographic means shall also be subject to its author's written authorization. The authorization must explicitly refer to the particular purpose for which it was granted, and the license for public presentation of the work by mechanical or phonographic means may not be combined with any other license.

Article 146

The provisions contained in this Chapter shall apply to the reproduction of intellectual works by any possible future process analogous to phonography.

CHAPTER VI

Photographic works

Article 147

1. The choice of a photograph's subject and the conditions of its creation must be deemed to be a personal artistic creation of its author if a photograph is to qualify for protection as an intellectual work under the terms of this law.
2. For the purposes of this law, images both of people and aspects of nature, panoramas and events of daily life obtained by any photographic or analogous process shall be deemed to be images, and this designation shall cover reproductions of figurative works of art and photograms of cinematographic films in particular.
3. The provisions of this section shall not apply to photographs of texts, documents, business papers, technical drawings or similar.

Article 148

1. The author of a photographic work shall have the exclusive right to reproduce, disseminate and offer for sale the work, subject to the restrictions concerning exhibition, reproduction and sale of portraits and without prejudice to copyright in the reproduced work in the case of photographs of works of figurative art.
2. Where a photograph has been made under an employment contract, the right referred to in this Article shall belong to the employer entity. Unless expressly agreed otherwise, this principle shall benefit those commissioning photographs as long as the subjects of the photographs are objects in their possession.

Any person who uses a photographic reproduction for commercial purposes must pay the author equitable remuneration.

Article 149

Unless otherwise agreed, the transfer of the negative or an analogous means of reproduction of a photographic work shall imply the transfer of the rights of the transferor referred to in the preceding Articles.

Article 150

1. Copies of a photographic work must bear the following information:

- (a) the name of the photographer or, in the cases set out in paragraph 2 of Article 148, the employer entity or the person/entity commissioning the photograph;
- (b) the year the photograph was taken;
- (c) in the case of photographs of works of figurative art, the name of the author of the work photographed.

2. Only the unlawful reproduction of photographs bearing the above-mentioned information may be punished. In the absence of such information, the author may not claim the compensation provided for in the present Code, unless the photographer can show evidence of bad faith on the part of the person making the reproduction.

Article 151

1. The reproduction of photographs in scientific or educational works shall be lawful, in exchange for payment to their author(s) of fair compensation.
2. Reproductions under the terms of this article must always bear the name of the photographer and the year of production, if such indications appear in the original.
3. The reproduction of photographs published in newspapers or other similar publications shall also be permitted through payment to the author of fair compensation, if they relate to people or current events or if they are of general interest for any reason.

Article 152

The reproduction and publication by press, cinema, television or any other media of images of works of architecture or any other plastic art already disclosed by the author shall be free.

Article 153

The exhibition or dissemination by any form of photography or cinematographic film of a surgical operation shall always be dependent on the

authorization of the surgeon and of the patient operated on.

Article 154

1. Unless otherwise agreed, when a photograph of a person has been taken on the basis of a commission, it may be published, reproduced or sent for reproduction by the person photographed or by his heirs or representatives without the photographer's consent.
2. Where the name of the photographer appears on the original photograph, it must also appear on the copies.

CHAPTER VII

Broadcasting and Other Processes for the Reproduction of Signals, Sounds and Images

Article 155

1. The audio or visual broadcasting of an intellectual work by any means, whether live or retransmitted, shall always be subject to the authorization of the author or his successors to all or certain of his rights.
2. Communication of the intellectual work in any public place through the use of any instrument designed to broadcast signals, sounds or images shall also be subject to the author's specific authorization or that of his successors.

Article 156

Owners of theaters or buildings to be used for broadcasting or communication according to the provisions of the preceding article, impresarios and any persons involved in presenting the performance to be transmitted must allow the installation of the instruments necessary for the transmission, as well as the tests or technical rehearsals necessary for its successful execution.

Article 157

1. Unless otherwise stipulated, the authorization provided for in Article 155 shall not imply authorization to record the works broadcast through the use of instruments fixing signals, sounds or images.
2. Broadcasting organizations shall nevertheless be permitted to record the works to be broadcast on disks or any analogous form of storage, but solely for use by their transmitting

stations in the case of transmission deferred due to timing or technical needs.

3. Such recordings must be destroyed after use or be made unusable for future transmission. State-owned broadcasting organizations may keep them in official archives, if they are of exceptional historic documentary interest.

Article 158

Authorization to broadcast a work shall apply to all broadcasts carried out by the station belonging to the entity granted the authorization.

Article 159

In the case of cultural programs all broadcasting stations must indicate, prior to the broadcast, the name or pseudonym or any other identifying sign of the author, together with the title or name identifying the broadcast work. Those cases in which, by custom, such indications are omitted owing to the circumstances and requirements of broadcasting shall be exempt. ,

Article 160

1. The author of the broadcast work shall, unless otherwise specifically agreed, have the right to remuneration, which must be established in the authorization contract. In the absence of a stipulated amount, the remuneration, should the parties not reach agreement on the amount, shall be set by the judicial authority, which for this purpose shall always take into account the number of broadcasts.
2. The author shall also receive remuneration for public communication of a broadcast work by means of radio reception devices equipped with loudspeakers or television reception apparatus, as well as for the public presentation of works by means of any other analogous instruments designed to transmit signals, sounds or images.
3. In the absence of an agreement between the parties, the amount of remuneration shall be set by the judicial authority, having heard the authors' representative, if there is one, and the professional body to which the entity staging the event belongs.

Article 161

Official broadcasting services authorized by the Ministry for National Education, or by the National Secretary for Information, Popular Culture and Tourism on behalf of the Ministry, may carry out, independently of the author's authorization, special

broadcasts deemed to be of national interest. The author of the broadcast work shall, however, have the right to fair remuneration.

Article 162

In the case of any aspects not considered to be specifically governed by the present Chapter, the provisions concerning performance and publication of intellectual works and those relating to publishing contracts not excluded by the particular nature of this form of use of intellectual works shall apply to sound and visual broadcasting and to broadcasting by any process designed to reproduce signals, sounds or images.

CHAPTER VIII

Translations, Arrangements and other Transformations of Intellectual Works

Article 163

The translation, transposition, arrangement, instrumentation, dramatization, adaptation and, in general, transformation by any means of an intellectual work may only be carried out by the author himself or by a person authorized by him. Such authorization must be given in writing and, unless otherwise specifically agreed, shall not imply the granting of exclusive rights.

Article 164

1. If, seven years having passed since the publication in a foreign language of a written work, the holder of the translation rights or another person with his authorization should not have published the work in Portuguese, any person may obtain a non-exclusive license to translate and publish the work from the courts.
2. This license may only be granted if the claimant can prove that he requested authorization to translate and publish the translation from the holder of the translation rights and that, following due diligence on his part, he was unable to establish contact with the copyright holder or to obtain his authorization.
3. Under the same conditions, the license may also be granted if, in the case of a translation already published in Portuguese, copies of the work have been exhausted.
4. If the claimant has been unable to establish contact with the holder of the translation rights, he must send copies of his request to the publisher whose name appears on the work

and either to the diplomatic or consular representative of the State of which the holder of the translation rights is a citizen – if the nationality of the holder of the translation rights is known, or to the organization designated by the Government of that State. The licenses may not be granted until three months after the submission of the copies of the request.

5. The title and the name of the author of the original work must be printed on all the copies of the published translation.
6. Licenses obtained in foreign countries shall not be deemed to be valid; however, copies of the translations obtained in this way may be imported and sold.
7. The translation licenses referred to in this Article shall not be transferrable.
8. If the author has withdrawn the copies of the work from circulation, the license may not be granted.

Article 165

1. The process referred to in the preceding article shall follow, in so far as it is compatible, the provisions of Articles 1425 to 1427 of the Code of Civil Procedure.
2. The action must be brought at the tribunal of the author's domicile.
3. The defendant must always be summonsed.
4. If the judge considers the action admissible, he shall immediately attribute fair compensation to the defendant in accordance with international practice. Only after the author has proved that payment was made or, in the case of impossibility of contacting the holder of the right, said payment has been guaranteed, shall authorization be granted.
5. An appeal may be lodged against the decision, with suspensive effect, which shall lead to a definitive ruling.

Article 166

Protection of translations, arrangements, instrumentations, dramatizations, adaptations, summaries, compilations and any other versions or transformations of intellectual works, including photographic and cinematographic adaptations, under the terms of this law, shall be granted without prejudice to copyright in the original work.

Article 167

Where the publisher, duly authorized to translate the work, concludes an agreement with a third party concerning the execution of that translation in return

for the payment of a certain amount, it shall be understood that, unless otherwise agreed, the translator has ceded his rights in the translation to the publisher.

Article 168

The authorization set out in Article 163 may be revoked, by means of judicial notification if the work is modified, misrepresented or reproduced in ways damaging to its reputation, or if the scope of the authorization granted has been exceeded.

CHAPTER IX

Use of Plastic, Graphic or Applied Arts Creations

SECTION I

Exhibition

Article 169

1. The author alone may exhibit, or authorize another person to exhibit, publicly his works of art.
2. Unless otherwise agreed, transfer of ownership of a work of art shall imply transfer of the right to exhibit it.

Article 170

Entities promoting exhibitions of works of art shall be liable for the safekeeping of the works exhibited and shall be required to insure them against fire, theft and any other risk of destruction or deterioration and shall keep them at the exhibition site, returning them at the end of the exhibition.

Article 171

The State shall have preference in the acquisition of the works exhibited should they be sold.

SECTION II

Reproduction

Article 172

1. Reproduction of creations of plastic, graphic and applied art may only be carried out by the author or by a third party authorized by him. This authorization shall be given in writing, shall not be presumed to be free of charge and may be subject to conditions.
2. Where the payment for reproduction set out in the contract consists of payment to the author of an amount proportional to the sale price of

the copies made or comprises, along with other elements,, a payment of this nature, it shall be compulsory to indicate the minimum sale price of the copies in the text of the contract.

Article 173

At the request of the author, each reproduction of the work shall display his name, pseudonym, or any other identifying sign.

Article 174

Contracts must always contain in the text, or as an integral part, indications allowing the work to be identified, as well as a brief description of the work, a sketch, drawing or photograph, together with the date and the author's signature. Reproductions may not be put on sale without the author's approval of a sample submitted to him for examination.

Article 175

The provisions of Article 90 shall apply to contracts governed by this section. However, such contracts shall set the number of copies to be sold annually. Should this number not be reached, the entity exploiting the reproduction may exercise the rights recognized in that Article.

Article 176

At the end of the contract, the models and any other elements used by the person who made the copies must be returned to the author. Instruments specially created for the reproduction of the work must, unless otherwise agreed, be destroyed or rendered unusable should the author of the work reproduced choose not to acquire them.

SECTION III

Protection of Works of Applied Arts

Article 177

Protection of works executed principally for an industrial purpose shall not extend to the industrial use of scientific theories.

TITLE III

Special Regimes

Newspapers and Periodicals

Article 178

1. Copyright for serial romances, novels and other literary, artistic or scientific works, whatever their subject matter or the purposes for which they are published, even where they are not signed, appearing in newspapers or periodic collections shall belong to the respective authors, and only they or third parties with their consent may reproduce those works separately, unless there is written agreement to the contrary.
2. The owners or publishers of the periodicals or compilations referred to in this article may, however, reproduce the copies of the collective work or work of joint authorship in which the contributions referred to above were published.
3. The works covered in Paragraph 1 may not be reproduced in any similar publication. However, news articles discussing economic, political or religious topics may be reproduced by the press where the right to make reproductions is not expressly reserved. However, the source must always be clearly indicated, with reference being made to the author's name if the article was signed.
4. Those who infringe the provisions contained in the preceding paragraphs shall expose themselves to the penalties imposed by this law, without prejudice to compensation regarding the damages they may have caused.

Article 179

1. Copyright in works produced in fulfillment of an employment contract which are signed shall belong to the authors. However, unless authorized by the company owning the newspaper or similar publication, authors may not publish the works referred to in the preceding paragraph separately until three months after the date of circulation of the publication in which they appeared. In the case of works constituting a series, the time limit referred to in the preceding paragraph shall commence on the date of effective distribution of the issue in which the final work of the series appeared.
2. Where the works referred to in this Article are not signed, copyright therein shall be attributed to the enterprise owning the newspaper or publication in which they appeared and their authors may only publish them separately with the permission of the enterprise.

Article 180

Daily news items and reports of events constituting simple news stories published in newspapers or other periodicals may be freely reproduced.

CHAPTER II

Unrestricted Use

Article 181

Organs of the press are free to reproduce speeches and other statements made in public, on the condition that the name of the author and the date and location at which the speech/statement was made are indicated.

Article 182

The provisions of the preceding article shall extend to conferences held at venues where representatives of the press were admitted, unless the author specifically states otherwise. In this event, only extracts may be reproduced.

Article 183

1. Lectures delivered by academics may only be published by third parties with the author's authorization, even if they are presented as the personal responsibility of the person publishing them or they have been obtained through stenographic note-taking.
2. Any use for an audience other than students shall require special authorization.
3. The provisions of Article 3 of this Code shall apply to the reproduction of lectures carried out in accordance with this Article.

Article 184

The performance of hymns or officially adopted patriotic songs, of works of a religious nature during religious services or acts, as well as that of work included in educational programs or books, when integrated in teaching, shall not be dependent on the authorization of the authors, who shall have no right to remuneration in such cases.

Article 185

1. Authors of any text shall have the right to transcribe or summarize in their work, extracts of others' works in support of their own doctrines or for the purposes of criticism, discussion or teaching, as long as such extracts are distinguished from their own text and the works from which the transcribed or summarized texts are taken and the name of the corresponding author are indicated.

Furthermore, the transcribed or summarized texts may not be so extensive that they prejudice interest in the work cited.

2. The transcription of extracts or fragments from the literary or musical works of others shall be permitted in anthologies for use in schools, under the terms of and within the limits referred to in the preceding paragraph. Should a transcription exceed those limits, the author shall have the right to fair recompense.

Article 186

The reproduction of the work of another person under the pretext of commentary or annotation without the authorization of the author shall not be permitted. However, it is lawful to publish separately comments or annotations of one's own with simple references to chapters, paragraphs or pages included in another author's work.

Article 187

An author who reproduces in book or pamphlet form articles or letters he has written as a part of an exchange of views involving another person and that have been published in newspapers or magazines may also reproduce his adversary's responses. The adversary in question shall have the same right, even after the publication by the former.

Article 188

The provisions in force concerning letters shall be applicable to letters constituting protected intellectual works, including letters that have already fallen into the public domain. However, this shall not apply to official correspondence, or to the epistolary correspondence of historical figures or figures of high scientific or literary renown, if that correspondence is not absolutely of a confidential nature and is of interest in that it clarifies historic or biographical events or is an example of a high value literary or artistic form.

TITLE IV

Registration

Article 189

1. The following shall be subject to registration:
 - a. all acts involving the total or partial transfer of copyright;
 - b. acts involving the putting up of collateral under the terms of Article 48;
 - c. Acts of seizure and attachment of copyright;

2. Failure to register acts subject to registration shall not prevent those acts from having effects between the parties or their successors or representatives; however with third parties those effects shall only come into force from the date of registration.
3. The existing rules on registration which do not contradict the provisions of this Code shall remain in force.

TITLE V

Infringement and Protection of Copyright

CHAPTER I

Protection of economic rights

SECTION I

Penal sanctions and compensation for loss and damages

Article 190

Any person who, without the due authorization of the author, uses or exploits another's work in any of the forms provided for in this Law, shall be liable for the penalties contained therein and shall, in addition, have civil liability for the prejudice he may cause.

Article 191

1. The misappropriation referred to in the preceding paragraph shall be viewed as being on a par with counterfeiting and the presentation by an individual, as his own creation, of what is in fact a reproduction, in whole or in part, of another's disclosed or undisclosed work shall be deemed to be counterfeiting for the purposes of this Law..
2. Where the reproduction referred to in this Article represents just a part or a fraction of the work produced, only that part of the work shall be deemed to be counterfeit.
3. For there to be counterfeiting, it is not essential for the reproduction to have been made by the same process as the original, in the same size or format.

Article 192

Under the terms of Article 190 the fact that a person abusively discloses a work not yet disclosed by its author or by the holder of the corresponding right shall be deemed to be misappropriation, even if he presents it as the work of the true author, and even if no economic advantage is sought through the disclosure.

Article 193

Any person granted an authorization to use or exploit a work who exceeds the limitations of said authorization shall be guilty of misappropriation to the extent that the use or exploitation exceeds the limits of the authorization granted.

Article 194

The following shall also be deemed to fall into the category of misappropriation:

- (a) transcriptions or summaries of extracts of the works of others which amount to violations of the limits set out in Article 185 of this Law;
- (b) compilations or collections of various poems or various extracts of the prose of an author, whether published by the author, or unpublished, without the necessary authorization.

Article 195

Failure to meet the legal requirement to present the written authorization of the author shall mean presumption of fraud, which in the meantime may be rebutted by any means admissible at trial.

Article 196

The following shall not constitute counterfeiting:

1. any resemblance between duly authorized translations of the same work, or between photographs, drawings, engravings or other forms of representation of the same object, where, despite the similarities due to the identity of the object itself, each of the works has its own specificity;
2. any reproduction by photography or engraving made solely for the purposes of illustrating criticism of art.

Article 197

1. Should they not constitute a crime punishable by a more severe penalty under the Penal Code or any other law, the misappropriation and counterfeiting referred to in the preceding articles shall be public offences, punishable by imprisonment of up to one year and a corresponding fine, which shall be doubled in the event of recidivism.
2. Where the unlawful economic exploitation involves a work not intended for public display, a counterfeit work or one which is modified without the author's consent in a way that alters its nature or is liable to offend the

honor or reputation of the author, the penalties shall be more serious in general legal terms.

Article 198

The following shall be punished with the penalties laid down in the preceding article:

- (a) reproduction of works referred to in Article 178(1), made in any publication of a similar nature to that in which they were originally published;
- (b) reproduction by the press of articles on current affairs and economic, political or religious issues published in newspapers or periodic collections publication of which has been reserved by the respective authors.

Article 199

Any author who has transferred his respective rights in whole or in part, or who has authorized the use of his work in any of the forms provided for in the present Law, and who uses or exploits said work, directly or indirectly, in a manner prejudicial to the rights granted to a third party, shall be liable to the penalty provided for in Article 197.

Article 200

Any person who knowingly sells, offers for sale, or in any way places on the market, in Portugal, misappropriated or counterfeit works, whether the copies in question were produced in the country or abroad, shall be liable to the penalties provided for in this section. Any person who acts in this way shall, in addition, be liable, along with those responsible for the misappropriation or counterfeiting of the work, for payment of compensation for the damages caused by these offences..

Article 201

Claims for loss and damages based on any infringement of copyright shall be independent both of any criminal proceedings to which such infringements give rise, as well as of any judicial request for seizure or suspension of the show or entertainment which the following section deals with. Such claims may however be put forward in conjunction with criminal action.

SECTION II

Special Guarantees for the protection of infringed rights

Article 202

1. In addition to the criminal and civil liability based on misappropriation and counterfeiting, the holder of copyright in the misappropriated work and, in general terms, any person who has in any way been harmed by a third party in the exercise of his rights to use and exploit the intellectual work, shall have the power to go to court to demand that the infringer be prevented from continuing the unlawful activity or from repeating the infringements committed.
2. The courts may, for this purpose, adopt the means judged essential to end the situation constituting the infringement, including ordering the destruction of the objects through which said infringement is being carried out.

Article 203

1. In the exercise of the right recognized in the preceding article the holder of copyright may request the court to seize the copies of the misappropriated or counterfeit work, whatever the nature of the work and the form of the infringement.
2. In addition to the seizure of the unlawfully reproduced or distributed copies, the interested party may request the seizure or destruction of the apparatus or instruments used in the reproduction or distribution which, by their very nature, may not be used for other lawful reproductions or broadcasts.

Article 204

1. The copies of the work seized under the terms of the preceding Article remain the property of the person requesting the seizure. In the case of literary or scientific works unlawfully published by the offender, the claimant shall also have the right to demand of the latter the value of the edition as a whole, minus the copies seized, at the price at which regularly published copies would be offered for or at which they are valued.
2. If the number of copies fraudulently printed and distributed is not known, the offender shall pay the value of the copies seized which, in addition to the copies seized, make up a total of 1000.

Article 205

The competent authorities for carrying out the seizure shall be the civil or criminal courts, the administrative or police authorities, and the National Republican Guard, by order of the authorities referred to. However, seizure shall always be by order of the judicial authority.

Article 206

1. Seizure may be requested in any district in which copies of the misappropriated work are found or have been put on sale. At the request of the judge who ordered the first seizure, the operation shall then be carried out in any other district in which it becomes necessary.
2. However, seizure shall only become definitive if the person against whom the order is made does not appeal against it within the ten-day period following its execution or conclusion, or where such an appeal has been ruled inadmissible.

Article 207

1. When exercising the right recognized under Article 202, the holder of copyright may request the judicial, administrative or police authorities of the place where the infringement of his right has been detected, as well as the Inspectorate General of Entertainment, to suspend immediately the performance, execution, recital or any other form of exhibition of his intellectual work, including cinematographic work, which may be being carried out without due authorization.
2. The holder of the copyright may also request the seizure of scenery, wardrobe and other objects belonging to the company which is promoting the show or intended for that purpose, upon provision of summary proof of this right and signing a document recognizing liability for losses and damages.

Article 208

In conjunction with the suspension request, the interested party may request the judicial authority to ensure that the offender hands over all the gross revenue.

Article 209

Where the entity promoting the show or entertainment has entered into a contract with a counterfeiter of the original work, the author of the work may also request the suspension and seizure referred to in the preceding articles and these measures shall not be dependent on proceedings against the counterfeiter.

Article 210

Suspension shall only become definitive if the entity against which the order is made does not appeal against it within the ten-day period following its

execution, or where such an appeal has been ruled inadmissible.

CHAPTER II

Protection of Moral Rights

Article 211

Any person authorized to use the work of another who makes changes, deletions or additions to that work without the authorization of the author, misrepresenting the work or damaging the reputation or honor of the author, shall be liable to the penalties imposed under Article 197.

Article 212

The provisions of the preceding chapter shall be applicable, in general terms, to the infringement of the moral rights of the author, in so far as the particular nature of the rights violated permits. Furthermore, the provisions of the following articles shall be observed.

Article 213

Criminal liability arising from the infringement of moral rights may only be imposed at the request of the author or his successors or representatives.

Article 214

1. Where authorship of the work has been claimed, the destruction set out in Article 202 shall only be permitted where the infringement committed cannot be remedied by the addition or suppression of the indications included in the work referring to its authorship or by any means of publicity.
2. Where an author is defending the integrity of his work, the destruction of copies that have been distorted, mutilated or amended in any way shall only be permitted if it is not possible to return them to their original form at the expense of the person(s) responsible for their altered state.

Let it be published and enacted.

Courts of the Government of the Republic, 27 April 1966 – AMÉRIGO DEUS RODRIGUES THOMAZ – António de Oliveira Salazar - António Jorge Martins da Mola Veiga – Manuel Gomes de Araújo – Alfredo Rodrigues dos Santos Júnior – João de Matos Anunes Varela – Ulisses Cruz de Aguiar Cortês – Joaquim da Luz Cunha - Fernando Quintanilha Mendonça Dias – Alberto Marciano Gorjão Franco Nogueira – Eduardo de Arantes e Oliveira – Joaquim Moreira da Silva

Cunha – Inocêncio Galvão Teles – Jose Gonçalo da
Cunha Sottomayor Correia de Oliveira – Carlos
Gomez da Silva Ribeiro – José João Gonçalves de
Proença – Francisco Pereira Neto de Carvalho.

(Government Bulletin No. 99, Series 1 of April 27,
1965)