

# COPYRIGHT AND RELATED RIGHTS ACT

- unofficial translation -

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# **COPYRIGHT AND RELATED RIGHTS ACT**

## **PART ONE INTRODUCTORY PROVISIONS**

### **Chapter 1 GENERAL PROVISIONS**

#### *Subject Matter of the Act*

##### Article 1

This Act regulates:

1. Scope of the Act;
2. copyright - rights of authors in respect of their works in the literary, scientific and artistic domains;
3. related rights:
  - a) performer's rights in respect of their performances;
  - b) rights of producers of phonograms in respect of their phonograms;
  - c) videogram producers' rights (audiovisual producers) in respect of their videograms;
  - d) broadcasting organisations' rights in respect of their programme signals;
  - e) publishers of press publications rights in respect of their press publications;
  - f) non-original database producers' rights in respect of their non-original databases;
  - g) publishers' rights in respect of their publications;
4. copyright and related rights in legal transactions;
5. exceptions and limitations of copyright and related rights;
6. management (individual and collective) of copyright and related rights;
7. protection of copyright and related rights in the case of infringement.

#### *Transposition of the European Union Acquis Communautaire*

##### Article 2

- (1) This Act shall transpose the following Directives to the Croatian legislation:
- Council Directive 93/83/EEC of 27 September 1993 on coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (OJ L 248, 6/10/1993),
  - Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27/3/1996),
  - Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society (OJ L 167, 22/6/2001),
  - Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art (OJ L 272, 13/10/2001),
  - Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ L 157, 30/4/2004),
  - Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27/12/2006),

- Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (codified version) (OJ L 376, 27/12/2006),
  - Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights (codified version) (OJ L 372, 27/12/2006),
  - Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (codified version) (OJ L 111, 5/5/2009),
  - Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights (OJ L 265, 11/10/2011),
  - Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works (OJ L 299, 27/10/2012),
  - Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (OJ L 84, 20/3/2014),
  - Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 242, 20/9/2017),
  - Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC (OJ L 130, 17/5/2019),
  - Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17/5/2019) and Corrigendum to Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 134, 22/5/2019).
- (2) This Act provides the preconditions for the implementation of:
- Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market (OJ L 168, 30/6/2017) and
  - Regulation (EU) 2017/1563 of the European Parliament and of the Council of 13 September 2017 on the cross-border exchange between the Union and third countries of available format copies of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled (OJ L 242, 20/9/2017).

### ***Gender Neutrality of Expressions***

#### Article 3

The expressions used in this Act, having a gender meaning, irrespective of whether they are used in the male or female gender, shall include equally the male and female gender.

***Copyright and Related Rights, Right Holders***

Article 4

- (1) Copyright shall belong, by its nature, to a natural person who has created a copyright work.
- (2) Performer's right shall belong, by its nature, to a natural person who has performed a work from the literary or artistic domain, or the expressions of folklore.
- (3) The original holder of other related rights may be any natural or legal person, unless otherwise provided by this Act.
- (4) Copyright and related rights may be limited against the will of their holders only under the conditions and in the manner regulated by this Act.
- (5) The right holder is a natural or a legal person, different from a collective management organisation, who is a holder of a copyright or a related right or who is entitled to a share in the income from the rights based on the contract on the use of rights or this Act.

***Disclosure, Publication, the Public and Public Use***

Article 5

- (1) A copyright work or a subject matter of a related right shall be considered to have been disclosed if made accessible to the public with the consent of the right holder.
- (2) A copyright work or a subject matter of a related right shall be considered published:
  - if, with the consent of the right holder, copies of that work or subject matter of a related right respectively have been offered to the public or put into circulation in the quantity sufficient to satisfy reasonable needs of the public;
  - if the copyright work or subject matter of a related right has been made available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.
- (3) The public shall mean a larger number of persons that are outside the usual circle of persons closely tied with family or other personal relations.
- (4) Public use of a copyright work shall be considered any use of a copyright work or a subject matter of related rights that is available to the public, or such use in the area that is available to members of the public or providing to members of the public access to the work and subject matter of related rights at a time and from a place individually chosen by them.

***Relation between Copyright and Related Rights  
and Interrelation between Related Rights***

Article 6

- (1) The protection of related rights under this Act shall leave intact and shall in no way affect the protection of copyright. No provision of this Act concerning the protection of related rights shall be interpreted in a way to prejudice the protection of copyright.
- (2) The exercise of the performers' rights of communication to the public of fixed performances referred to in Article 136 paragraph (1) of this Act must not prejudice the exercise of copyright.
- (3) The exercise of the rights of phonogram producers must not prejudice the exercise of copyright or the performers' rights.
- (4) The exercise of the rights of audiovisual producers must not prejudice the exercise of copyright, the performers' rights or the rights of phonogram producers.

- (5) The exercise of the rights of broadcasting organisations shall not prejudice the exercise of copyright, the performers' rights, the rights of phonogram producers or the rights of audiovisual producers.
- (6) The exercise of the rights of publishers of press publications must not prejudice the exercise of copyright, the performers' rights, the rights of phonogram producers, the rights of audiovisual producers or the rights of broadcasting organisations.
- (7) The publisher of press publications may not invoke his right of the publisher of press publications against the holders of copyright or related rights in copyright works and subject matter of related rights incorporated in his press publication, and in particular may not prevent them from using their copyright works and subject matter of related rights independently from the press publication in which they are incorporated.
- (8) If a copyright work or subject matter of a related right is incorporated in a press publication on the basis of an acquired non-exclusive right of exploitation, the publisher of the press publication may not invoke his right against other acquirers of the non-exclusive right of exploitation of the same copyright works or subject matter of related rights.
- (9) The publisher of press publications may not, by invoking his right, prohibit the use of copyright works or subject matter of related rights for which the protection has expired.
- (10) The exercise of the rights of producers of non-original databases must not prejudice the exercise of copyright, the performers' rights, the rights of phonogram producers, the rights of audiovisual producers, the rights of broadcasting organisations or the rights of publishers of press publications.

## **Chapter 2**

### **SCOPE OF THE ACT**

#### *In General*

##### Article 7

- (1) Protection under this Act shall be enjoyed by the authors and holders of related rights who are nationals of the Republic of Croatia or of another Member State of the European Union or have their principle place of establishment in the Republic of Croatia or in another Member State of the European Union.
- (2) Natural or legal persons who are third-country nationals or have their principle place of establishment in third countries (hereinafter: foreigners) shall enjoy the same protection as is enjoyed by the persons referred to in paragraph (1) of this Article, within the scope of obligations assumed by the Republic of Croatia under international agreements or on the basis of factual reciprocity. Until proven otherwise, factual reciprocity is considered to exist.
- (3) By way of derogation from the provisions of paragraphs (1) and (2) of this Article, foreigners, under this Act, shall enjoy protection:
- with respect to copyright works written in Croatian;
  - with respect to moral rights;
  - with respect to resale right and non-original database producer rights based on factual reciprocity.
- (4) A foreigner shall not have more extensive protection in the Republic of Croatia than he has in the state of which he is a national or in which he has its principal place of establishment, if a person referred to in paragraph (1) of this Article has in the state of the foreigner less extensive protection than he has been granted under this Act.

### ***Authors***

#### Article 8

In addition to persons referred to in Article 7 paragraphs (2) and (3) of this Act, the protection under this Act shall be enjoyed by foreign authors:

- who have a habitual residence in the Republic of Croatia;
- with respect to the works of architecture which are built in the territory of the Republic of Croatia and the works of visual arts, which are firm integral parts of a real estate located in the territory of the Republic of Croatia.

### ***Performers***

#### Article 9

In addition to persons referred to in Article 7 paragraphs (2) and (3) of this Act, the protection, pursuant to Article 7 paragraph (4) of this Act, shall be enjoyed by the foreigners - performers who have their habitual residence in the Republic of Croatia.

### ***Producers of Phonograms and Audiovisual Producers***

#### Article 10

In addition to persons referred to in Article 7 paragraphs (2) and (3) under this Act, the protection, pursuant to Article 7, paragraph (4) of this Act, shall be enjoyed by foreign producers of phonograms and audiovisual producers if the phonogram or videogram was first published in the Republic of Croatia.

### ***Broadcasting Organisations***

#### Article 11

In addition to persons referred to in Article 7 paragraphs (2) and (3) of this Act, the protection pursuant to Article 7, paragraph (4) of this Act, shall be enjoyed by foreign broadcasting organisations that transmit their broadcasts through transmitters located in the territory of the Republic of Croatia.

### ***Comparison of Terms of Protection***

#### Article 12

(1) The terms of protection under this Act shall apply to foreigners – authors who enjoy protection under this Act, but the terms of protection shall expire not later than on the day when the protection expires in the state of which these authors are nationals, and shall not exceed the terms under this Act.

(2) Within the scope of application of international treaties, the terms of protection under this Act shall apply to foreigners – holders of related rights who enjoy protection under this Act, but the terms of protection shall expire not later than on the day when the protection expires in the state of which these holders are nationals or in which they have their principle place of establishment, and shall not exceed the terms provided by this Act.

### *Stateless Persons*

#### Article 13

(1) Authors and holders of related rights that have no nationality, or whose nationality cannot be determined, shall enjoy equal protection under this Act as the nationals of the Republic of Croatia, if they have their habitual residence in the Republic of Croatia.

(2) If the persons referred to in paragraph (1) of this Article do not have their habitual residence in the Republic of Croatia, they shall enjoy equal protection as the nationals of the state in which they have their habitual residence.

## **PART TWO**

### **COPYRIGHT**

#### **Chapter 1**

### **COPYRIGHT WORKS**

#### *Copyright Work*

#### Article 14

(1) A copyright work shall be an original intellectual creation in the literary, scientific and artistic domain, having an individual character, irrespective of the manner and form of its expression, its type, value or purpose, unless otherwise provided for in this Act.

(2) Copyright works shall be:

- works of language, such as written works, oral works, and computer programs, comprising the expression of a computer programme in any form, including preparatory design material;
- musical works with or without words;
- dramatic or dramatico-musical works;
- choreographic works and works of pantomime;
- works of visual art in the field of painting, sculpture, and graphics, irrespective of the material they are made of, and other works of visual arts;
- works of architecture, such as sketches, studies, plastic and other representations, drawings, conceptual designs, design development, execution projects, plans and constructed buildings and interventions in the field of architecture, urbanism and landscape architecture;
- works of applied art and industrial design;
- photographic works and works produced by a process similar to photography;
- audiovisual works, such as cinematographic, television, documentary, cartoon, advertising or other films and other audiovisual works expressed by images, with or without sound, in a time-organized sequence of changes, regardless of the type of background on which they are fixed;
- journalistic works, such as articles, photographs and audiovisual clips;
- video games and other multimedia works;
- cartographic works;
- presentations of a scientific or technical nature such as drawings, plans, sketches, tables;
- other types of original intellectual creations that have an individual character.

(3) The subject matter of copyright may be any copyright work, except the one which cannot be such work by its nature, and the one for which the provisions of this Act provide that it cannot be the subject matter of copyright.

(4) The subject matter of copyright is the work as a whole, including an unfinished copyright work, the title and the parts thereof that fulfil the preconditions set out in paragraph (1) of this Article.

(5) The title of the work which does not fulfil the preconditions for being the subject matter of copyright, and which has already been used for a certain copyright work, shall not be used for the same kind of work, if such title is likely to create confusion as to the author of the work.

### *Alterations*

#### Article 15

(1) Translations and other alterations of a copyright work, which are original individual intellectual creations, shall be protected as independent copyright works. This includes translations, adaptations, remakes and other alterations of computer programs, which are original individual intellectual creations.

(2) Provisions of paragraph (1) of this Article shall not affect the rights of the author of the original work.

(3) Translations of official texts in the domain of legislation, administration and judiciary, which are original individual intellectual creations, shall be protected as individual copyright works, unless made for the purpose of officially informing the public and are disclosed as such.

(4) As an exception to paragraph (1) of this Article, slightly reworked, adapted or musically processed musical works with or without words, in respect of which copyright has expired, are not considered original intellectual creations and are not protected as adaptations.

### *Copyright Collection and Copyright Database*

#### Article 16

(1) Collection of independent works, data or other materials, which by reason of the selection or arrangement of their constituent elements constitutes original individual intellectual creations in accordance with Article 14 paragraph (1) of this Act (hereinafter: copyright collection), such as encyclopaedias, collections of documents, anthologies, databases, and the like, shall be protected as an individual copyright work. No other criteria shall be applied for the adequacy of copyright protection of a copyright collection.

(2) The protection enjoyed by the copyright collection referred to in paragraph (1) of this Article, shall not extend to its contents and shall in no way prejudice the rights subsisting in the copyright works and subject matter of related rights included in the collection.

(3) Copyright databases shall be a copyright collection of independent copyright works, data or other material arranged according to a certain system or method, the elements of which are individually available by electronic or other means.

(4) The protection provided for in this Act for a copyright database referred to in paragraph (3) of this Article, shall not apply to computer programs used in the making or in the operation thereof. Such computer programs shall be protected as individual copyright works if they are original individual intellectual creations.



### ***Out-of-Commerce Copyright Works***

#### Article 17

- (1) A copyright work shall be deemed to be out of commerce when, given the characteristics of that copyright work, it can be presumed in good faith that the whole work is not available to the public through customary channels of commerce, after a reasonable effort has been made to determine whether the work is available to the public. This also includes works that were never available on the market.
- (2) Reasonable effort does not imply repeated action over time but includes taking into account all readily available evidence of the future accessibility of the work through customary channels of commerce.
- (3) The accessibility of a copyright work on the market shall, as a rule, be determined by sampling or a similar proportional mechanism, except in cases where it is considered reasonable to determine the accessibility of individual works to the public, given the availability of relevant data, probability of commercial accessibility and expected costs of taking actions to determine accessibility to the public. Limited accessibility of a copyright work, such as accessibility in antique shops, or the theoretical possibility of obtaining permission to use it is not considered accessibility through customary channels of commerce.
- (4) The author may at any time, by an explicit written statement, exclude the application of the provisions of paragraphs (1) to (3) of this Article in relation to one or more or all of his works which are considered to be out of commerce under this Article.
- (5) Data on works that are out of commerce shall be submitted by cultural heritage institutions referred to in Article 187 paragraph (3) of this Act to the European Union Intellectual Property Office, in accordance with Regulation (EU) 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private sector representatives at the European Observatory on Intellectual Property Infringements (OJ L 129, 16/5/2012), for publication on a public single internet portal maintained by that Office. Information on the parties to the contract on granting permission to reproduce, distribute, communicate to the public, including an act of making available to the public, out-of-commerce copyright works, covered areas and uses must be permanently, easily and actually available on a public single internet portal maintained by the Office, at the earliest six months before use in accordance with Article 192 or 223 of this Act.

### ***Unprotected Creations***

#### Article 18

- (1) The subject matter of copyright shall include expressions and not ideas, procedures, methods of operation or mathematical concepts as such.
- (2) The copyright works shall not include:
1. discoveries;
  2. ideas and principles on which any element of a computer programme is based, including those ones on which its interfaces are based;
  3. news of the day and other news, having the character of mere items of media information.
- (3) Official texts in the domain of legislation, administration and judiciary, such as acts, regulations, decisions, reports, minutes, judgments and the like, official programs, such as school and academic programs, work programs, and the like, spatial plans, such as spatial

development plan, urban plan, and the like, conservation bases, as well as their collections, are protected as copyright works from the moment of creation, if original individual intellectual creations. The moment they are handed over to any official procedure or to an official person for the purpose of informing the public or public use, or when they are published for the purpose of officially informing the public, they cease to be protected by copyright.

(4) Anyone who in any way publicly transmits daily news and other news that have the character of ordinary media information and are not subject to copyright and other media information that he learned from publicly published sources, is obliged to clearly and visibly indicate in his publication:

- the name of the publisher of press publications or broadcasting organisation or another publisher of the media or electronic media who first published a daily news, other news or other media information, and
- the name of the signed journalist, if this is in accordance with the usual practice in media reporting.

(5) When someone uses someone else's copyright works or subject matter of related rights that contain daily news and other news or other media information, to make their public announcements of the same daily news and other news or other media information, in a manner for which it is not necessary to obtain consent from right holders or collective management organisations, is obliged to state the sources used by him in an appropriate, clear and visible way to indicate:

- the name of the publisher of press publications or broadcasting organisation or another publisher of the media or electronic media whose content he uses, and
- the name of the signed journalist, if this is in accordance with the usual practice in media reporting.

(6) Indicating sources and names referred to in paragraphs 4 and 5 of this Article is not considered advertising.

(7) Folk literary and artistic creations in their original form are not subject to copyright, but for their communication to the public a remuneration is paid as for the communication to the public of protected copyright works. The remuneration shall be used to encourage appropriate artistic and cultural creativity of a predominantly non-commercial nature and cultural diversity in the relevant artistic and cultural field in accordance with Article 245, paragraph (4) of this Act. The remuneration shall be exercised mandatory collectively. The cultural heritage institutions referred to in Article 187, paragraph (3) of this Act shall not be obliged to pay the remuneration.

(8) When the term of protection of a copyright work of visual art has expired, any material resulting from an act of reproduction of that work is not subject to copyright or related rights, unless the material resulting from that act of reproduction is original in the sense that it is the author's own intellectual creation within the meaning of Article 14 paragraph (1) of this Act.

## **Chapter 2**

### **AUTHORS**

#### *Author*

#### Article 19

- (1) The author of the work is a natural person who has created the work.
- (2) Copyright in a work belongs to its author by the mere act of the creation of the work.

### *Authors of Compound Works*

#### Article 20

- (1) If two or more authors join their created works for the purpose of a joint use, each of them shall keep the copyright in his own work.
- (2) Mutual relations between authors of a compound work shall be regulated by a contract. If such contract is not concluded or unless otherwise provided by a contract or by rules of a relevant collective management organisation, all the authors of a compound work shall be considered to be entitled to an equal share in the remuneration to be obtained for the use of such compound work.
- (3) A musical work with lyrics is considered a compound work.

### *Co-authors*

#### Article 21

- (1) Co-authors of a work shall be the persons who created the work jointly, and whose contributions cannot be used independently.
- (2) Co-authors shall have a joint copyright in the created work, so a part of such copyright calculated in proportion to the whole copyright (hereinafter: co-authors' shares) shall belong to each of them.
- (3) When in doubt as to the co-authors' shares, they shall be considered to be equal.
- (4) The consent of all the co-authors shall be needed for the disclosure, use and alteration of their work. An individual co-author shall not refuse to give his consent for the reason, which is contrary to the principle of conscientiousness and fairness, nor shall undertake any action, which unjustifiably prejudices or could be prejudicial to the legitimate interests of other co-authors. If the consent of all the authors concerning disclosure, use or alteration of their work has not been achieved, the decision to that effect shall be made by the court, at a request of any of the co-author.
- (5) A share of each co-author in the benefits deriving from the use of the work corresponds to his co-author's part, unless otherwise provided for by a contract regulating their mutual relations or rules of a relevant collective management organisation.

### *Co-authors of Audiovisual Work*

#### Article 22

- (1) Audiovisual works are considered co-authored works.
- (2) The principal director is the main co-author of an audiovisual work.
- (3) Other co-authors of an audiovisual work are:
  1. the author of a screenplay,
  2. the principal cameraman,
  3. the principal image and sound editor,
  4. the composer of music specifically created for use in such work.
- (4) If a drawing or animation represents an essential element of an audiovisual work, the principal drawer or the principal animator shall be considered as a co-author of that work.
- (5) If another natural person proves that his original individual intellectual creation is an essential part of the audiovisual work and that he could be recognized as a co-author of that work in accordance with Article 14 paragraph (1) of this Act, this person will be recognized as a co-author of that audiovisual work.

***Authors of Contributions to Audiovisual Work***

Article 23

A music composer, a drawer or an animator, who is not considered the co-author of an audiovisual work according to the provision laid down in Article 22 paragraphs (3) and (4) of this Act, an assistant director, the author of a dialogue, a camera operator, a scenographer, a costume designer, a face makeup artist, the author of special visual or sound effects and other authors that participate in the creation of an audiovisual work, shall have the copyright in their individual contributions (hereinafter: authors of contributions).

***Presumption of Authorship***

Article 24

The author is presumed to be a person whose name, pseudonym, artist's mark or code appears in the customary manner on the copies of the work or when the work is disclosed, until proven to the contrary.

***Copyright Works for Which Authors Cannot Be Identified or Found  
(Orphan Works)***

Article 25

- (1) If, after carrying out a careful search in accordance with this Act, no author of that work or none of the co-authors is identified or, even if the author is identified but not located or the co-authors are identified but not all are located, such work shall be considered an orphan work.
- (2) Cultural heritage institutions referred to in Article 187 paragraph (3) of this Act, educational establishments and public-service broadcasting organisations shall also, for the purpose of identification and/or location of authors or co-authors of works from their collections and archives, prior to the use of the work, in accordance with this Act, carry out in good faith a diligent search in respect of each work. The diligent search shall be carried out by searching the sources that are appropriate for the respective category of works and then recorded. If there is evidence to suggest that the relevant information on right holders is to be found in other countries, sources of information available in those other countries shall also be searched.
- (3) A cultural heritage institution referred to in Article 187 paragraph (3) of this Act may, on the basis of a contract, authorise another cultural heritage institution or other natural or legal person to carry out diligent searches in its name and on its behalf.
- (4) Provisions of this Article shall apply to:
  - works published in the form of books, journals, newspapers, magazines or other writings, and cinematographic or other audiovisual works contained in the collections of publicly available libraries, educational establishments or museums, and other legal persons carrying out the museum activity, as well as in the collections of archives or of film or audio heritage institutions, and
  - cinematographic or other audiovisual works produced by public-service broadcasting organisations or their legal predecessors up to and including 31 December 2002 and contained in their archives.
- (5) Provisions of this Article shall apply to the works referred to in paragraph (4) of this Article:
  - which are protected by copyright and which are first published in the Republic of Croatia or, in the absence of publication, first broadcast in the Republic of Croatia or

whose producer has a principal place of establishment or permanent residence in the Republic of Croatia;

- which have never been published or broadcast, but which have otherwise been made publicly available for the first time by publicly available libraries, educational establishments or museums and other legal persons carrying out the museum activity, as well as archives, film or audio heritage institutions and public-service broadcasting organisations established in the Republic of Croatia with the consent of the authors, provided that it is reasonable to assume that the authors of such works would not oppose the uses referred to in Article 189 of this Act;
  - that are embedded or incorporated in, or constitute an integral part of, those works.
- (6) If certain co-authors are located, the orphan work shall be treated in the way in which the located co-authors approved the use of that work.
- (7) The author or the co-author of the orphan work may at any time put an end to the application of provisions on treating orphan works referred to in this Act in relation to his rights.
- (8) A work which is according to the law of any other Member State of the European Union considered an orphan work shall also be considered an orphan work in the Republic of Croatia, without the need to carry out the search procedure. The same shall also apply *mutatis mutandis* to co-authors' works in respect of which it was established in another Member State of the European Union that they have an orphan work status, because not all of the co-authors are identified or located, but only in relation to their co-authors' shares.
- (9) Appropriate sources for conducting a diligent search, the recording procedure and the content of the records referred to in paragraph (2) of this Article shall be determined by Annex I, which is an integral part of this Act. Cultural heritage institutions referred to in Article 187, paragraph (3) of this Act may adopt rules on diligent search, taking into account the provisions of Annex I to this Act, and specify additional sources in them.
- (10) The territory of the Republic of Croatia referred to in this Article shall also imply all of its predecessor states.
- (11) This article does not affect the author's ability to mark his identity with a pseudonym or to publish his work anonymously.

### Chapter 3

## CONTENT OF COPYRIGHT

### *Content of Right*

#### Article 26

- (1) Copyright shall include moral and economic rights of authors.
- (2) Copyright shall protect personal and intellectual ties of the author with his work (hereinafter: moral rights of the author) and economic interests of the author in respect of his copyright work (hereinafter: economic rights of the author).
- (3) The author is entitled to remuneration for each use of his work, unless otherwise provided for by this Act or by a contract. Remuneration shall be determined as the price of use in private law relationship.

### ***3.1. Moral Rights of the Author***

#### ***Right of First Disclosure***

##### Article 27

- (1) The author shall have the right to determine whether, when, where, how and under what conditions his copyright work will be disclosed for the first time (hereinafter: right of first disclosure).
- (2) Until the copyright work is disclosed for the first time, the author shall have the right to reveal to the public the content or description of his work.

#### ***Right of Recognition of Authorship***

##### Article 28

- (1) The author shall have the right to be recognized and indicated as the author of the work (hereinafter: right of recognition of authorship).
- (2) A person who publicly uses a copyright work, shall be obliged to indicate the author at each use, unless the author has declared in a written form that he does not want to be indicated, or if the manner of a certain public use is such that prevents the indication of the author.

#### ***Right of Respect for a Copyright Work***

##### Article 29

- (1) The author shall have the right to oppose to any distortion, mutilation and similar modification of his work (hereinafter: right of respect for a copyright work), and to destruction of the original or the last specimen of his work, in accordance with the provisions referred to in Article 114 of this Act.
- (2) Minor alterations, remakes, adaptations or reworks, which do not affect the basic character of the work, shall not be considered as deformation, mutilation or modification within the meaning of paragraph (1) of this Article.
- (3) If the author has approved the rework referred to in Article 54 of this Act or is presumed to have approved it under this Act, the moral right to respect the copyright work referred to in this Article may not be invoked if the rework has been made in accordance with the purpose for which the author approved it or for which it is presumed under this Act to have approved it.

#### ***Right of Respect for Honour and Reputation of the Author***

##### Article 30

The author shall have the right to oppose to any use of his work in a manner jeopardising his honour or reputation (hereinafter: right of respect for honour and reputation of the author).

#### ***Right of Revocation***

##### Article 31

- (1) The author shall have the right to revoke a right of exploitation of his copyright work, compensating the damages to the holder of such right, where further use would be prejudicial to his honour or reputation (hereinafter: right of revocation). Right of revocation shall also be

exercised by the author's heirs, if the author decided so in his will, or if they prove that the author, prior to his death, was entitled and tried to exercise such right, but was prevented from doing so.

(2) The revocation shall be effective from the day when the author deposits the security for the compensation for damages.

(3) The holder of the right of exploitation of a copyright work shall, within three months as from the receipt of the notification of revocation, communicate to the author the amount of outstanding costs incurred to him in the preparation for the use of his work up to the day of receipt of such notification, as well as the amount of other damage incurred to him because of revocation. If the holder of the right of exploitation of a copyright work fails to do so, the notification of revocation shall become effective upon expiry of the time limit referred to in this paragraph.

(4) If, within ten years as from his exercise of the right of revocation, the author decides to resume the exploitation of the work in respect to which he exercised his right of revocation, he shall be required to offer such right first to the person to whom such right was revoked.

(5) The author may not renounce the right of revocation.

(6) The provisions of this Article shall not apply to electronic databases, computer programs, works of architecture and audiovisual works.

### ***3.2. Economic Rights of the Author***

#### ***Content of Economic Rights of the Author***

##### Article 32

The author shall have the exclusive right to do with his copyright work and the benefits deriving from it whatever he likes, and to exclude any other person from it, unless otherwise provided for by this Act. This right shall include:

- right of reproduction,
- right of distribution (right to put into circulation),
- right of communication of a copyright work to the public,
- right of alteration.

#### ***Reproduction***

##### Article 33

(1) The right of reproduction shall be the exclusive right of making one or more copies of copyright works, in whole or in part, directly or indirectly, temporarily or permanently, by any means and in any form. The right of reproduction shall also include fixation which shall mean the fixing of copyright works in the material or other corresponding medium.

(2) A copyright work is reproduced: by graphic procedures, photocopying and other photographic procedures with the same effect, by sound or visual recording, by building or carrying out works of architecture, by storage of the work in electronic form, by fixing of the work transmitted by computer's net on a material medium, by uploading or storing a computer program, by reproducing necessary to present, perform or transmit a computer program, by reproducing a copyright work within the ancillary online service referred to in Article 48 paragraph (2) of this Act and by other methods.

### ***Distribution, Rental Right and Lending Right***

#### Article 34

- (1) The right of distribution shall be the exclusive right to put into circulation the original or copies of the copyright work by sale or otherwise, including rental right, and to offer them to the public for such purpose. Storage of copies of the copyright work and taking other actions to distribute copies of the copyright work is equated with distribution.
- (2) The rental right is the exclusive right of giving the original or copies of a copyright work for use in a limited period, for the purpose of direct or indirect material or commercial benefit. The rental right of a copyright work shall not apply to architectural works and works of applied art already made.
- (3) Public lending implies the manner of placing the original or copies of a copyright work, in respect of which further distribution is permitted, on the market when they are made available for use in a limited period through public libraries, without direct or indirect material or commercial benefit. Public lending does not require the author's approval but an appropriate remuneration must be paid (hereinafter: the right to a public lending remuneration).
- (4) The first sale of the original or copies of the copyright work or other form of transfer of ownership, by the author or with his consent, in the territory of any of the Member States of the European Union, or any of the States Parties to the Agreement Creating the European Economic Area, respectively shall exhaust the right of distribution in respect of such original and such copies respectively, for the territory of the Republic of Croatia. The exhaustion of the distribution right shall not cause the rental right of a copyright work to expire, the right of the author to authorise or prohibit the export to or the import from a third country of the original or copies of the copyright work, and the right to remuneration for public lending of the work.
- (5) In respect of collections and copyright databases, the exhaustion of the distribution right shall refer only to further sale.
- (6) The author who has given up his rental right in favour of a producer of phonograms or of an audiovisual producer shall retain the right to receive equitable remuneration for the rental of his copyright work. The author may not renounce the right to the equitable remuneration. Remuneration for the rental shall be paid by the person renting the copyright work. The right to the equitable remuneration for the rental shall be exercised mandatory collectively.
- (7) The author may not renounce the right to the remuneration for public lending. The right to the remuneration for public lending shall be exercised mandatory collectively.
- (8) Public lending referred to in paragraph (3) of this Article shall not apply to buildings and works of applied art.
- (9) The right to the remuneration for public lending shall not apply to copyright works mutually lent by public libraries.
- (10) By way of derogation from the provision of paragraphs (1), (3) and (7) of this Article, authors of copyright databases and authors of computer programs shall have the exclusive right of public lending of the originals or copies of their copyright databases and computer programs.

### ***Resale Right***

#### Article 35

- (1) If the original of a work of visual art is resold by any act involving sellers, buyers or intermediaries professionally dealing with art trade, such as public auctions, art galleries or



other art dealers, the author shall have the right to equitable share in the selling price for each time his original is resold after its first alienation by the author (hereinafter: the resale right). In that case, the distribution right shall not be exhausted.

(2) By way of derogation, the provision referred to in paragraph (1) of this Article shall not apply, where the seller is an art gallery which has acquired the work directly from the author less than three years before that resale and where the resale price does not exceed the equivalent value of EUR 10 000 in HRK.

(3) The original of a work of visual art shall mean a picture, collage, painting, drawing, engraving, print, lithography, sculpture, tapestry, ceramics, glassware, photography or another work of visual art, where created by the author himself. Copies of works of visual art which have been made in limited numbers by the artist himself or under his authority shall be considered to be originals of works of visual art. Such copies shall normally be numbered, signed or marked by the author.

(4) A seller who resells the work referred to in paragraph (3) of this Article, at a price exceeding the equivalent amount of EUR 500 in HRK, shall pay to the author the equivalent amount in HRK of:

- 5 % for the portion of the selling price from EUR 500.00 to 50,000.00;
- 3 % for the portion of the selling price from EUR 50,000.01 to 200,000.00;
- 1 % for the portion of the selling price from EUR 200,000.01 to 350,000.00;
- 0.5 % for the portion of the selling price from EUR 350,000.01 to 500,000.00;
- 0.25 % for the portion of the selling price exceeding EUR 500,000.00.

(5) The total amount, which, on the basis of the provision referred to in paragraph (4) of this Article belongs to the author, shall not exceed the equivalent amount of EUR 12,500.00 in HRK. Base for calculation of such amount shall be the selling price without tax.

(6) If the resale of the original referred to in paragraph (3) of this Article has been effected through a public auction, an art gallery or by intermediary of any other art dealer, the organiser of the public auction, the owner of the art gallery or the art dealer, shall share joint and several liability with the seller for the payment of the amount belonging to the author.

(7) The author cannot renounce his resale right. The resale right shall not be transferred by legal transactions during the author's life nor shall it be subject to execution but it can be inherited.

(8) For a period of three years after the resale of his work, the author shall have the right to require from any person referred to in paragraph (1) of this Article, to furnish any information that is necessary in order to secure payment of the amount that belongs to him in respect of the resale.

### *Communication of a Copyright Work to the Public*

#### Article 36

(1) The author shall have the exclusive right to communicate his work to the public in every way, by wire or by wireless means (hereinafter: the right of communication to the public). For any communication of a copyright work to the public, it is necessary to obtain approval by contract or in another way, unless otherwise provided by this Act.

(2) The right of communication of a copyright work to the public shall include:

- right of public performance;
- right of public stage presentation;
- right of public transmission;
- right of public communication of fixed works;
- right of public presentation;
- right of broadcasting;

- right of retransmission;
- right of direct injection;
- right of making it available to the public;
- right of public communication of broadcasting, retransmission, direct injection and making it available to the public;
- right of communication to the public, including an act of making it available to the public, within an ancillary online service;
- right of communication to the public, including an act of making it available to the public, with providing the public with access to the works uploaded by users on online content-sharing platforms; and
- other ways of communication to the public.

### ***Public Performance***

#### Article 37

The right of public performance shall mean the exclusive right to communicate to the public:

- works in the domain of literature or science by live reading or reciting (hereinafter: the right of public recitation);
- musical works by live performance (hereinafter: the right of public musical performance).

### ***Public Stage Presentation***

#### Article 38

The right of public stage presentation shall mean the exclusive right to communicate to the public dramatic, dramatico-musical, and choreographic works or works of pantomime, by their live stage presentation.

### ***Public Transmission***

#### Article 39

The right of public transmission shall mean the exclusive right to communicate a recitation, a music performance or a stage presentation of a copyright work to the public that is outside the place where the work is recited, performed or presented on stage live, by loudspeaker, screen or any other technical device.

### ***Public Communication of a Fixed Work***

#### Article 40

The right of public communication of a fixed copyright work shall mean the exclusive right to communicate to the public a sound or visual recording of a copyright work from the medium it is fixed in.

### ***Public Presentation***

#### Article 41

The right of public presentation shall mean the exclusive right to communicate to the public the works of visual arts, architecture, applied arts and industrial designs, a photographic or audiovisual work, and a cartographic work, or a presentation of scientific or

technical nature, by technical devices.

### ***Broadcasting and Broadcasting by Satellite***

#### Article 42

- (1) The right of broadcasting shall mean the exclusive right to communicate a copyright work to the public by radio or television program-carrying signals, intended for reception by the public, either by wireless means (including satellite), or by wire.
- (2) Communication to the public by satellite (hereinafter: broadcasting by satellite) shall exist where under the control and responsibility of the broadcasting organisation program-carrying signals intended for the reception by the public are introduced into an uninterrupted chain of communication leading to the satellite and from the satellite down towards the Earth.
- (3) A satellite, for the purposes of this Act, shall mean any satellite operating on frequency bands reserved for the broadcasts of radio or television programme signals intended for reception by the public, or for closed, point-to point communication. If a closed, point-to-point communication is concerned, the circumstances in which individual reception of the signals takes place must be comparable to those in which public reception of the signals takes place.
- (4) Where the program-carrying signals are encrypted, communication to the public shall be deemed to have occurred on condition that the means for decrypting such signals are provided to the public by the broadcasting organisation, or with its consent.

### ***Principles of a Country of Origin Applied in Broadcasting by Satellite***

#### Article 43

- (1) Broadcasting by satellite shall exist in the Republic of Croatia where under the control of the broadcasting organisation in the Republic of Croatia program-carrying signals are introduced into an uninterrupted chain of communication leading to the satellite and down towards the Earth.
- (2) Satellite broadcasting is considered to take place in a Member State of the European Union other than the Republic of Croatia when program-carrying signals are introduced into an uninterrupted communication chain in that other Member State.
- (3) Satellite broadcasting is considered to take place in the Republic of Croatia or in another Member State of the European Union also when the program-carrying signals are sent to the satellite from a terrestrial satellite transmitting station located in the Republic of Croatia or in that other Member State of the European Union, and satellite broadcasting takes place in a country that is not a member of the European Union and does not provide the same level of legal protection for satellite broadcasting as a Member State of the European Union. In such case, satellite broadcasting shall be deemed to be undertaken by a person operating a terrestrial satellite transmitting station in the Republic of Croatia or in another Member State of the European Union.
- (4) Satellite broadcasting is considered to take place where the broadcasting organisation has its principal place of establishment when a terrestrial satellite broadcasting station in the Republic of Croatia or in another Member State of the European Union is not used to transmit program-carrying signals to the satellite but the broadcasting organisation, which has its principal place of establishment in the Republic of Croatia or in another Member State of the European Union, has ordered satellite broadcasting, and the satellite broadcasting procedure takes place in a non-EU country and which does not provide the same level of legal protection for satellite broadcasting as a Member State of the European Union. In such case,

broadcasting shall be deemed to be carried out by the broadcasting organisation which commissioned the satellite broadcasting.

### ***Retransmission***

#### Article 44

(1) The right of retransmission shall mean the exclusive right to a simultaneous, unaltered and unabridged communication to the public of a copyright work contained in television or radio program-carrying signals, intended for reception by the public, in the way that the first broadcasting, by wire or by air, including by satellite but excluding via the internet, from the Republic of Croatia or any other state, is communicated to the public:

- by a person other than the broadcasting organisation that carried out the first broadcast or under whose control and responsibility it was carried out, regardless of how a retransmission service operator receives programme signals from it for the purpose of retransmission, and
- if the retransmission via the Internet access service is carried out in a regulated environment.

(2) Pursuant to Article 2 paragraph 2 item 2 of the Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No. 531/2012 on roaming on public mobile communications networks within the Union, internet access service means a publicly available electronic communications service that provides access to the internet, and thereby connectivity to virtually all end points of the internet, irrespective of the network technology and terminal equipment used.

(3) Regulated environment is an environment in which a retransmission service operator provides secure retransmission to lawful acquirers.

(4) The right of cable retransmission shall mean the exclusive right to a simultaneous, unaltered and unabridged communication to the public of a copyright work contained in television or radio program-carrying signals, in the way that the first broadcasting, by wire or by air, including by satellite, from the Republic of Croatia or any other state, is communicated to the public, is retransmitted via cable system, regardless of how a cable retransmission service operator receives programme signals from a broadcasting organisation for the purpose of retransmission.

### ***Direct Injection***

#### Article 45

(1) The right of direct injection is the exclusive right of communication to the public in such a way that the broadcasting organisation transmits its television or radio programme signals containing the author's work directly to the signal distributor, whereby these signals are not transmitted directly to the public by itself but by the distributor.

(2) The broadcasting organisation and the signal distributor shall be deemed to participate in a single public communication action in respect of which they must obtain the author's approval, each for itself. The participation of a broadcasting organisation and a signal distributor in a single public communication action does not lead to their joint responsibility for communicating the copyright work to the public.

(3) When a broadcasting organisation transmits its television or radio programme signals containing the author's work directly to the public, and thus performs the initial transmission action, and at the same time transmits those signals to other broadcasting organisations

through the technical procedure of direct signal flow, transmissions performed by other broadcasting organisations are considered a separate act of communicating to the public by retransmission while the initial act of transmission is considered to be broadcasting.

***Making Available to the Public***

Article 46

The right of making available to the public shall mean the exclusive right to communicate a copyright work to the public by wire or wireless means, in such a way that members of the public may access it from a place and at a time individually chosen by them.

***Public Communication of Broadcasting, Retransmission, Direct Injection and Making Available to the Public***

Article 47

The right of public communication of broadcasting, retransmission, direct injection and making available to the public shall mean the exclusive right to communicate to the public a copyright work that is broadcast, retransmitted, transmitted by direct injection or made available to the public, by a loudspeaker, screen or similar technical device.

***Ancillary Online Services of a Broadcasting Organisation***

Article 48

- (1) An approval for exercising the rights referred to in Article 33, 36 and 46 of this Act shall be obtained for reproduction of a copyright work and its communication to the public by wire or wireless means, including an act of making it available to the public, within the ancillary online service.
- (2) The ancillary online service is the online service provided by or under the control and responsibility of a broadcasting organisation and consisting of the provision to the public of television or radio programs simultaneously or linearly or during a specified period after their broadcast, such as missed content services, and any accompanying content with such broadcasting, such as announcements, extensions, additions or evaluations of the content of the relevant program.
- (3) The ancillary online service is provided by the broadcasting organisation to the users together with the broadcasting service in a clear and subordinate relationship with the broadcast program, whereby the users can access the ancillary online service separately from the broadcasting service and unconditionally in relation to it.
- (4) Granting access to copyright works included in a television or radio programme or works not related to any broadcast programme of the broadcasting organisation, such as access to certain musical or audiovisual works or music albums or video content by means of a video-on-demand service, shall not be considered as an ancillary online service.

***Application of the Country of Origin Principle to Ancillary Online Services***

Article 49

- (1) Communication of copyright works to the public by wire or wireless means within the meaning of Article 36 of this Act, including an act of making them available to the public referred to in Article 46 of this Act, within the ancillary online service provided by or under the control and responsibility of a broadcasting organisation, shall be deemed to be performed in the Republic of Croatia when that broadcasting organisation has its principal place of

establishment in the Republic of Croatia. The same shall be deemed for the reproduction of such works within the meaning of Article 33 of this Act, which is necessary for the provision of an ancillary online service for the same programs, access to that service or use of that service.

(2) The provision under paragraph (1) of this Article shall refer to copyright works contained in:

- radio programs;
- news and information programs; or
- own production programs of the broadcasting organisation which fully finances these programs with its own funds.

(3) Where the funds used by the broadcasting organisation for its productions come from public funds shall also be deemed own financing.

(4) Productions ordered by the broadcasting organisation from producers who are independent of the broadcasting organisation of that co-production shall not be considered as own productions.

(5) The provision under paragraph (1) of this Article shall not apply to:

- broadcasts of sports events and copyright works included in them;
- granting approval for the use of the broadcasting organisation's own productions to others, including other broadcasting organisations.

(6) The country of origin principle does not affect the freedom of authors and broadcasting organisations to agree among themselves, in accordance with the European Union law, on limitations on the exercise of their rights, including territorial limitations.

### ***Providing the Public with Access to Works Uploaded by Users on Online Content-Sharing Platforms***

#### Article 50

(1) Providing the public with access to copyright works uploaded by users on online content-sharing platforms shall represent communication to the public referred to in Article 36 of this Act, including an act of making available to the public of a copyright work referred to in Article 46 of this Act, which the author may approve or prohibit to the online content-sharing service provider.

(2) The online content-sharing service provider is an information society service provider within the meaning of the law regulating electronic trade, the main or one of the main purposes of which is to store and provide the public with access to a large amount of copyright works uploaded by its users, organised and promoted for the purpose of obtaining direct or indirect material or commercial benefit.

(3) Information society service providers within the meaning of the law regulating e-commerce, whose services do not have as their main purpose enabling users to download and share large amounts of copyright content for material or commercial benefit from such activities, such as non-profit online encyclopaedias and scientific repositories, open platforms for the development and sharing of open source computer programs, providers of electronic communications services within the meaning of the law regulating electronic communications, online stores whose main activity is retail and which do not provide access to copyright content, cloud services for entrepreneurs and cloud services that allow users to download content for their own needs, such as online storage services (cyberlockers), are not considered online content-sharing service providers in terms of this Act.

(4) To perform actions of providing the public with access to the works uploaded by users, the online content-sharing service provider is obliged to obtain the author's approval. Such approval obtained by the online content-sharing service provider shall also cover the

actions of the content-sharing service user that fall within the scope of Articles 33 and 36, including Article 46 of this Act, when the user does not operate on a commercial basis or fails to generate significant revenues with his activity.

(5) Contracts between online content-sharing service providers and authors must be fair and maintain a reasonable balance between both parties, and authors should receive appropriate remuneration for the use of their works.

(6) The author is not required to make a contract with the online content-sharing service provider or to authorise the use of his works.

(7) The author is obliged to duly explain his request for denial of access or removal of his works.

(8) If the online content-sharing service provider has entered into a contract with the author, it will provide him, upon request, with information on the use of the work to which the contract relates.

(9) When the online content-sharing service provider provides the public with access to the works uploaded by users, the provisions on the limitation of liability for data storage (hosting) referred to in Article 18 paragraph (1) of the Electronic Commerce Act (Official Gazette, No. 173/03, 67/08, 36/09, 130/11, 30/14 and 32/19) shall not apply to such online content-sharing service provider.

### ***Limitation of Liability of the Online Content-Sharing Service Provider***

#### Article 51

(1) If the online content-sharing service provider fails to obtain the author's approval to perform the actions of providing the public with access to the works uploaded by users on online content-sharing platforms, it shall be held liable for unauthorised communication of copyright works to the public referred to in Article 36 of this Act, including an act of making available to the public of copyright works referred to in Article 46 of this Act, unless it demonstrates that it has:

- a) made best efforts to obtain an authorisation; and
- b) made, in accordance with high industry standards of professional diligence, best efforts to ensure the unavailability of specific works for which the right holders have provided the service providers with relevant and necessary information; and, in any event
- c) acted expeditiously, upon receiving a sufficiently substantiated notice from the right holder, to disable access to, or to remove from its website, the notified works, and made best efforts to prevent their future uploads in accordance with item b) of this paragraph.

(2) In determining whether the online content-sharing service provider has complied with its obligations referred to in paragraph (1) of this Article and with applying the principle of proportionality, the following elements, among others, shall be taken into account:

- a) the type and scope of the service and its audience, as well as the type of work uploaded by users of the online content-sharing service provider; and
- b) the availability of appropriate and effective means and their cost to the online content-sharing service provider.

(3) Only paragraph (1) item a) of this Article shall apply to new online content-sharing service providers whose services are available to the public in the European Union for a period of less than three years and whose annual turnover is not exceeding EUR 10 million, calculated in accordance with the Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20/5/2002), with regard to the preconditions for excluding liability for unauthorised

communication of copyright works to the public, including by making copyright works available to the public. In addition, such an online content-sharing service provider, after receiving a sufficiently reasoned notification from the author, is obliged to act expeditiously to prevent access to the reported works or to remove them from its website.

(4) If the average number of individual users of online content-sharing services exceeds five million in one month, calculated on the basis of data for the previous calendar year, the online content-sharing service provider referred to in paragraph (3) of this Article must prove that it has made best efforts to prevent further uploads of reported works for which their authors provided it with relevant and necessary information.

(5) The provisions of paragraphs (3) and (4) of this Article may not be abused in order to avoid the liability of the online content-sharing service provider or to extend the more favourable liability regime for a period longer than three years.

(6) The provisions of paragraphs (3) and (4) of this Article shall not apply to newly established online content-sharing service providers or those that appear under a new name, but which in both cases in nature continue the operation of an already existing online content-sharing service provider which paragraphs (3) and (4) of this Article may not apply to.

(7) The limitation of liability referred to in this Article may not be applied to providers of information society services in the sense of the law regulating electronic commerce whose main purpose is to participate in or enable unauthorised use of copyright works or piracy.

(8) The online content-sharing service provider shall, upon request, provide the author with appropriate information on the operation of its practices referred to in paragraph (1) of this Article.

### ***Limitations with Implementing Online Content-Sharing Service***

#### Article 52

(1) The cooperation between the online content-sharing service provider and the author regulated in Article 51, paragraph (1) of this Act shall not result in the prevention of availability of works uploaded by the users of the online content-sharing service if it does not infringe copyright or if the works are used in accordance with the content limitations of copyright from this Act.

(2) The application of Articles 50 and 51 of this Act, as well as this Article, shall not lead to a general monitoring obligation.

(3) The provisions of Articles 50 and 51 of this Act, as well as this Article, do not affect the lawful use of copyright works, such as uses in accordance with the content limitations of copyright from this Act and shall not lead to identification of individual users or processing of their personal data, except in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) and the Act governing electronic communications.

(4) The online content-sharing service provider is obliged to inform users through its general terms and conditions of business about the possibilities of using copyright works in accordance with the content limitations of copyright from this Act.

(5) Copyright works created by users of online content-sharing services, when uploading and making these works available to the public, shall be subject to the content limitations referred to in Articles 202 and 206 of this Act.



### ***Complaints Concerning Online Content-Sharing Service***

#### Article 53

- (1) The online content-sharing service provider shall establish effective and expeditious complaint and other procedures of legal protection for users of its services, which are available in the event of disputes about the denial of access or removal of works uploaded by its users.
- (2) Complaints from users of online content-sharing services must be resolved immediately upon receipt, and decisions to block access or remove uploaded works must be subject to human scrutiny.
- (3) Users of online content-sharing services may initiate proceedings before the Council of Experts for Remunerations in the Field of Copyright and Related Rights (hereinafter: Council of Experts) in accordance with Article 239 of this Act, arbitration, other out-of-court and court proceedings, especially for the purpose of examining the application of content limitations of copyright, in accordance with this Act and other regulations.

### ***Right to Alteration***

#### Article 54

The right of alteration shall mean the exclusive right to translate, adapt, musically arrange or otherwise modify a work.

## **Chapter 4**

### **COPYRIGHT IN LEGAL TRANSACTIONS**

#### ***4.1. Basic Provisions***

#### ***Inheritance of Copyright***

#### Article 55

- (1) Copyright shall be inheritable.
- (2) All the rights that would belong to the author shall belong to his heirs, unless otherwise provided for in this Act.
- (3) General regulations on inheritance shall apply to all other matters related to inheritance of copyright, which are not regulated by this Act.

#### ***Transferability of Copyright***

#### Article 56

- (1) Copyright shall not be transferable, except by inheritance and transfer for the benefit of coheirs in the case of dissolution of community of heirs.
- (2) Other dispositions of copyright shall be allowed, unless otherwise provided for by this Act.

### ***Execution***

#### Article 57

- (1) Copyright shall not be subject to execution. Only economic benefits acquired in the use of a copyright work may be subject to execution, unless otherwise provided for by this Act.
- (2) If the author has, by non-finishing of work or non-publishing of original, breached a contractual obligation, he shall not be forced to fulfil it, but shall be liable for damage resulting from it.

### ***Disposition of Copyright by Granting a Right of Exploitation***

#### Article 58

- (1) The author may grant to another person a right of exploitation of a copyright work or may entrust him the exercise of copyright by a contract, by giving the authorisation for use, or by other legal transaction.
- (2) The author may grant to another person a right on the basis of which he will be able to use a copyright work in any or in a certain manner (hereinafter: the right of exploitation). The right of exploitation may be granted as an exclusive or a non-exclusive right, limited in terms of content, time or space.
- (3) The holder of the exclusive right of exploitation may use a copyright work in a manner which complies with the content of his right and exclude any other person, including the author, from such use, unless otherwise provided by this Act. When granting the exclusive right of exploitation, it may be defined that the author reserves the right of use of the copyright work but not to the detriment of the one in whose favour the exclusive right of exploitation is established.
- (4) The non-exclusive right of exploitation shall entitle its holder to use the copyright work in a manner which complies with the content of his right, but it does not entitle him to prevent other persons from any use of that work.
- (5) If the manner of use of a copyright work has not been expressly indicated when the right was granted, it shall be considered that the person acquiring the right has acquired a right to use a copyright work in a manner necessary to satisfy the purpose of a legal transaction on the basis of which the right has been acquired. If from the purpose of the legal transaction it cannot be established whether the right was granted as an exclusive or a non-exclusive right, limited as to territory, it shall be considered that it was granted as a non-exclusive right for the territory of the Republic of Croatia.
- (6) In the case of doubt, a legal transaction comprising a disposition of copyright shall in other cases be interpreted for the benefit of the author.
- (7) The author shall refrain from acts that would impede the holder of the right of exploitation to exercise his right.

### ***Non-Exercise and Revocation of the Exclusive Right of Exploitation***

#### Article 59

- (1) If the holder of the exclusive right of exploitation fails to exercise his right or exercises it insufficiently, prejudicing thereby legitimate interests of the author, the author may demand revocation of the exclusive right of exploitation, unless the holder of the exclusive right of exploitation proves that he is not responsible for the reasons causing the non-exercise of the right.

(2) Where the holder of the exclusive right of exploitation who was granted such right on the basis of a contract or in another way from its original holder ceases to exist, and there is no heir or another legal successor to it, the right of exploitation shall be revoked.

(3) If the holder of the exclusive right of exploitation is declared bankrupt, the right of exploitation is part of the bankruptcy estate. If in the bankruptcy proceedings no one acquires the exclusive right of exploitation, it shall be terminated.

### ***Later Grant of the Exploitation Right***

#### Article 60

Later grant of the exploitation right, even the exclusive one, shall not prejudice the earlier granted exploitation right, exclusive or non-exclusive, unless otherwise provided by a contract on the grant of an earlier right.

### ***Transfer of the Right of Exploitation***

#### Article 61

(1) The right of exploitation may be transferred without the author's authorisation from one person to another within transfer of the entire business or the part thereof constituting the entirety.

(2) Where the right of exploitation can be transferred without the author's authorisation, the person acquiring the right of exploitation shall have joint and several liability for fulfilling the obligation which the person transferring such right has in respect of the author.

### ***Granting of Further Rights of Exploitation***

#### Article 62

(1) The holder of the exclusive right of exploitation may, on the basis of his right, grant to another person further right of exploitation only with the written authorisation of the author. The author may not refuse to give his authorisation, if it would be contrary to conscientiousness and fairness. The authorisation shall not be necessary if the right of exploitation has been granted only for the sake of its exercising for the benefit of the author.

(2) The provision under paragraph (1) of this Article shall not apply to audiovisual works and computer programs. Audiovisual producer and the holder of the exclusive right of exploitation may grant to another person further right of exploitation only without prior authorisation of the author.

### ***Disposition of Copyright by Entrusting the Exercise Thereof***

#### Article 63

(1) The author may authorise another person to exercise the copyright for his account. Copyright may be exercised for the account of the author on the basis of a legal transaction by which the author entrusts the exercise of his right, or, directly, by virtue of the law, complying with the pre-requisites provided by this Act.

(2) It shall be considered that the author has entrusted the exercise of his particular right to the collective rights management association which deals with the respective right, if the association exercises such right for his benefit and for the benefit of other authors for their respective rights.

### ***Renouncement of Copyright***

#### Article 64

The author may not renounce his copyright.

### ***4.2. General Part of the Contractual Copyright***

#### ***Copyright Contracts***

#### Article 65

A contract on the basis of which the right of exploitation of copyright (hereinafter: copyright contract) is acquired shall be concluded in a written form, unless otherwise provided by this Act.

#### ***Content of Copyright Contracts***

#### Article 66

- (1) A copyright contract shall specify at least the work it concerns, the manner of use, the remuneration for the use of the work or an explicit provision that the right of use shall be exercised without remuneration and the person authorised to use the copyright work.
- (2) A copyright contract may also be concluded in respect of a work which is not yet created, provided that it defines the type of the work and the manner of use of the future work.
- (3) A contractual provision concerning the grant of the right of exploitation of all author's future works shall be null and void.

#### ***Determining Remuneration for the Use of a Copyright Work***

#### Article 67

- (1) The author shall be entitled to appropriate and equitable remuneration for each use of his copyright work.
- (2) If the amount of remuneration has not been determined by a legal transaction, or if the determined amount of remuneration is not equitable, or if it has not been determined under the provision of Article 235 of this Act, the author shall be entitled to request an appropriate and equitable remuneration.
- (3) An equitable remuneration shall be the one that has to be given or determined fairly at the time of concluding a legal transaction, taking account of the type and scope of the use of a copyright work, actual or potential economic value of the right of use as acquired, taking account of potential or achieved financial success in it, the author's contribution to the work in total, the kind and size of the work, the duration of use, the existence of agreement between the relevant associations of authors and the relevant association of users determining the amount of equitable remuneration, as well as other elements on the basis of which a decision on the amount of equitable remuneration can be made, such as fair market practice or actual exploitation of the work.
- (4) The remuneration set as a lump sum may be equitable if it corresponds to the circumstances of the case, taking account of specificities of various fields of creations.
- (5) The principle of equitable remuneration referred to in this Article shall not apply to authors of computer programs.

***Right of the Author to Adjust a Contract  
for the Purpose of More Fair Share in the Profit***

Article 68

- (1) The author has the right to adjust the originally agreed remuneration in copyright contracts in changed circumstances. The manner of adjusting the originally agreed remuneration in copyright contracts, in changed circumstances, may be regulated in collective agreements between representative associations of authors and representative associations of users.
- (2) If the collective agreements referred to in paragraph (1) of this Article have not been concluded, the author has the right to demand additional appropriate and fair remuneration from the holder of the right of exploitation with whom he concluded the copyright contract or his legal successor, if the originally agreed remuneration proves disproportionately low in comparison with the entire subsequent relevant income generated by the exploitation of the work, taking into account the circumstances of each case, the contribution of the author and the specifics of different areas of creativity and market practice that are applied in different areas of creativity.
- (3) The author may not waive the right referred to in paragraph (1) and (2) of this Article.
- (4) Disputes related to the rights referred to in paragraphs (1) and (2) of this Article may be resolved in mediation proceedings before the Council of Experts pursuant to Article 239 of this Act, in arbitration or court proceedings, which may be initiated by the authors themselves or their representative associations at the individual request of one or more authors.
- (5) This article shall not apply in cases where the contracts are concluded by a collective management organisation or an independent management entity.
- (6) This Article shall not apply to authors of computer programs.
- (7) Contract provisions contrary to this Article shall be null and void.

***Transparency Obligation***

Article 69

- (1) The author has the right to receive on a regular basis, at least once a year, up to date, relevant and comprehensive information on the exploitation of his copyright work, which is the subject of copyright contract, in particular as regards modes of exploitation, all revenues generated, any contractual deductions and remuneration due.
- (2) If on the basis of a well-founded right of exploitation the holder of that right (hereinafter: primary holder of the right of exploitation) establishes a further right of exploitation, the author has the right to obtain the information referred to in paragraph (1) of this Article from the further holder of the right of exploitation, who is also obliged to identify further holders of exploitation rights. The author may submit the request for data submission to the holder of the further right of exploitation directly or through the primary holder of the right of exploitation.
- (3) The obligation to provide information must be proportionate and effective. In justified cases where the obligation to provide all the information referred to in paragraph (1) of this Article would be disproportionate in the light of the revenues generated by the exploitation of the work, the obligation shall be limited to the types and level of information that can reasonably be expected in such cases.
- (4) The obligation to submit information shall not apply when the author's contribution is not significant having regard to the overall work, unless the author requests the information for the exercise of his rights referred to in Article 68 of this Act.

- (5) Disputes related to the rights referred to in this Article may be resolved in mediation proceedings before the Council of Experts pursuant to Article 239 of this Act, in arbitration or court proceedings, which may be initiated by the authors themselves or their representative associations at the individual request of one or more authors.
- (6) This article shall not apply to collective management organisations and independent management entities.
- (7) This Article shall not apply to authors of computer programs.
- (8) Contract provisions contrary to this Article shall be null and void.

***The Right to Unilaterally Terminate the Copyright Contract  
due to Non-Exploitation of the Work***

Article 70

- (1) If the holder of the exclusive right of exploitation does not start exploiting the copyright work at all within the agreed or legal or appropriate period, the author may invite him to fulfil the obligation to exploit it within a subsequent reasonable period of time. If the holder of the exclusive right of exploitation does not start exploiting the work even upon expiry of the subsequent reasonable period, the author may terminate the contract by a unilateral statement.
- (2) In the case of a co-authored or compiled work, all co-authors or authors of the compiled work may, by a joint unilateral statement, terminate the copyright contract in application of paragraph (1) of this Article.
- (3) The author has no right to terminate the contract due to non-exploitation of the work:
- if non-exploitation is a result of circumstances that can reasonably be expected to be corrected by himself; or
  - if there are justifiable reasons for non-exploitation of the work that can be remedied and if the holder of the exclusive right of exploitation invokes these reasons within eight days upon receipt of the invitation to fulfil the obligation of exploitation within a subsequent reasonable time; in that case, the author is obliged to give the holder of the exclusive right of exploitation an appropriate deadline for eliminating the reasons for non-exploitation of the work.
- (4) In cases when according to the provisions of this Article the author has the right to unilateral termination of the contract due to non-exploitation of the work, instead of termination he may unilaterally remove the exclusivity of the right of exploitation which is contracted or presumed under this Act.
- (5) This Article shall not apply to authors of computer programs nor to co-authors and authors of contributions of audiovisual works.
- (6) Contract provisions contrary to this Article shall be null and void.

***Application of Regulations on Civil Obligations***

Article 71

The provisions of the Act regulating civil obligations shall apply to all the matters related to copyright contracts which are not regulated by this Act.

### ***4.3. Special Part of Contractual Copyright Law***

#### ***4.3.1. Publishing Contract***

##### ***General Information Concerning the Contract***

###### Article 72

(1) By a publishing contract, the author undertakes to grant to the publisher the right of reproduction of his particular copyright work by printing or other similar process, and the right of distribution of the copies of the copyright work (hereinafter: the right of publication), while the publisher undertakes to publish the copyright work as agreed, and to pay to the author the agreed remuneration, unless otherwise provided by a contract, as well as to take care about a successful distribution of the copies of the copyright work, and to provide the author with the information on its distribution.

(2) Unless otherwise provided by a publishing contract, it shall be presumed that the publisher has the exclusive right to publish the work. This presumption shall not apply to the right of publication of articles in daily or periodical press, to publications or electronic publications for which no written contract has been concluded (hereinafter: small publishing contract).

##### ***Granting of Further Rights of Exploitation***

###### Article 73

(1) By the publishing contract, the author may grant the right to the publisher to make the work available to the public in the form of an electronic book or other electronic publication and other property rights.

(2) By the publishing contract, the author may grant the right to the publisher to translate his work into a certain language as well as the right to publish the translated work, the right to make the translated work available to the public in the form of an electronic book or other electronic publication and other property rights.

(3) Unless otherwise specified in the publishing contract, the publisher shall be presumed to have the exclusive rights of exploitation referred to in paragraphs (1) and (2) of this Article, unless it is a small publishing contract.

##### ***Verification of Accuracy of Information***

###### Article 74

(1) The author shall have the right of insight and control, at any time, of the publisher's business records and documentation, to verify the accuracy of information provided to him by the publisher.

(2) The author shall be authorised to require from a third person who has reproduced the copyright work for the publisher, information concerning the number of copies made of his work, and such person shall be obliged to provide the author with complete and true information to that effect.

##### ***Exception to the Rule Concerning Obligatory Written Form of a Contract***

###### Article 75

A small publishing contract relating to the publication and other exploitation of articles, photos, drawings, video clips and other author's contributions in daily and periodical

press, publications or electronic publications, does not need to be made in a written form.

### ***Conclusion of Contracts through a Representative***

#### Article 76

A representative of the author may conclude a publishing contract only for such copyright works as are expressly indicated in the author's power of attorney.

### ***Determining the Amount of the Author's Remuneration***

#### Article 77

(1) If the author's remuneration is determined as a percentage of the retail price of the copies sold, the publishing contract must specify a minimum number of such copies of the first edition, and a minimum remuneration which the publisher has to pay to the author regardless of the number of copies sold.

(2) If the remuneration is set as a lump sum, the publishing contract must specify the total number of copies agreed upon to be printed. If this number is not agreed upon, and unless otherwise deriving from fair business practices or circumstances of the case, the publisher may publish not more than 500 copies of the copyright work.

### ***Other Elements of the Contract***

#### Article 78

(1) A publishing contract shall contain the provision on the validity of the publishing right and the validity of other rights of exploitation of the work, if agreed upon.

(2) A publishing contract may also contain the following:

- a time limit within which the author is required to deliver his correct original of the work. Unless otherwise provided by a contract, this time limit shall be one year from the date of the conclusion of the contract;
- a time limit within which the publisher is required to publish the copyright work. Unless otherwise provided by a contract, this time limit shall be one year from the date of delivery of the copy of the work;
- the number of the editions which the publisher is authorised to publish. Unless otherwise provided by a contract, the publisher shall have the right to publish only one edition of the work;
- a time limit within which the publisher is required to publish a new edition of the work, if stipulated by a contract. Unless otherwise provided by a contract, this time limit shall be one year from the date of delivery of such written request by the author;
- a provision concerning the ownership over a copy of the work delivered, if it is the first or the only copy. This copy shall remain the ownership of the author, unless he undertakes to give it to the ownership of the publisher by virtue of a contract;
- appearance and technical equipment of the copies of the work.

### ***Improvements and Other Modifications of the Copyright Work***

#### Article 79

Unless otherwise provided by a publishing contract, the publisher shall be required to allow the author to make improvements or other modifications to the copyright work when new editions are prepared, provided that this does not alter the character of the work.



### ***Destruction of the Original and of the Prepared Edition***

#### Article 80

- (1) If the original of the work is destroyed after its delivery to the publisher, by fault of the publisher or by force majeure, and there is no other copy of the work, the author shall be entitled to the remuneration that would belong to him if the work had been published. If the author has another copy of the copyright work, he shall deliver it to the publisher, at the publisher's expense.
- (2) If a prepared edition of the copyright work is completely destroyed by force majeure before it was put into circulation, the publisher shall be entitled to prepare a new edition, and the author shall have the right to remuneration only for the destroyed edition.
- (3) If a prepared edition of the copyright work is partially destroyed by force majeure before it was put into circulation, the publisher shall be entitled to reproduce, without payment of remuneration to the author, only that number of copies that was destroyed.

### ***Publisher's Priority Right***

#### Article 81

- (1) A publisher, who has acquired the right to publish the copyright work, and he was not granted the rights of exploitation in the publishing contract according to Article 73 paragraphs (1) and (2) of this Act, has among other publishers who offer equal terms, the priority right to publish that work in an electronic or any other form.
- (2) A publisher who intends to use the priority right referred to in paragraph (1) of this Article, shall submit his offer to the author, within 30 days upon receipt of the author's written invitation.
- (3) The priority right referred to in paragraph (1) of this Article, shall last for a period of two years as from the date of concluding a publishing contract.

### ***Termination by Rescindment of Publishing Contract***

#### Article 82

- (1) The author may terminate a publishing contract by a unilateral written statement if the publisher does not publish the copyright work or does not proceed to publish a new contracted edition of the copyright work within the stipulated time or term determined by law.
- (2) If the publishing contract referred to in paragraph (1) of this Article is not fulfilled due to a publisher's fault, the author shall have, apart from the right to compensation for damages, the right to keep the remuneration received, or to demand payment of the stipulated remuneration.
- (3) A publisher may terminate the publishing contract by a unilateral written statement if the author does not deliver to the publisher a copy of the copyright work within the time limit stipulated by a contract or by the law. In case of termination, the publisher shall have the right to claim the damages due to non-fulfilment of a contractual obligation.

### ***Destruction of Copies of the Copyright Work***

#### Article 83

- (1) A publisher who intends to sell the unsold copies of the copyright work for recycling, or otherwise destroy them, or withdraw them from circulation, shall first offer the buy-off thereof to the author, at the price he would have obtained if copies were sold for recycling. If

he fails to do so, he shall be held liable for the infringement of the right of respect for the copyright work referred to in Article 29 of this Act.

(2) If the author does not accept the publisher's offer referred to in paragraph (1) of this Article, or accepts it only for a certain number of copies, the publisher may sell the remaining copies of the copyright work for recycling or destroy it or withdraw it from circulation.

#### ***4.3.2. Public Performance Contract***

##### ***General Information about the Contract***

###### Article 84

(1) By a contract on public performance of a copyright work, an author undertakes to grant the user with the right of exploitation of a copyright work by public recitation of the work or by public performance of his musical work, in the manner and under conditions provided by a contract, while the user undertakes to pay to the author a stipulated remuneration for the right acquired, unless otherwise provided by a contract.

(2) The right of exploitation referred to in paragraph (1) of this Article may also be established by granting authorisation for public recitation or for live public performance of a musical work.

(3) A user of the copyright work shall be required to allow the author to access the performance of the copyright work, to provide for adequate technical conditions that assure respect of moral rights of the author, and to provide the author with a list of performed copyright works, and to inform the author of the profit derived from the performance of his copyright work, unless otherwise provided by a contract.

##### ***Cessation of the Right of Exploitation or of Authorisation***

###### Article 85

The right of exploitation or the authorisation granted for public recitation, or live public performance of a musical work, shall cease if the user does not use the copyright work in the manner and under conditions provided by a contract on public performance of the copyright work or by the authorisation granted.

##### ***Effective application to Other Public Exploitations of the Work***

###### Article 86

The provisions referred to in Article 84 and 85 of this Act shall also apply accordingly to the contract on public transmission, public communication of a fixed work, broadcasting, retransmission, direct injection, the contract on making available to the public, public communication of a broadcasting, retransmission, direct injection and making available to the public and providing the public with access to the works uploaded by users of non-stage literary and musical works on platforms for content-sharing via the internet.

#### ***4.3.3. Contract on Public Stage Presentation of the Copyright Work***

##### ***General Information Concerning the Contract***

###### Article 87

(1) By a contract on public stage presentation, an author undertakes to grant the user with the right of public stage presentation of a certain copyright work, while the user undertakes to

present the copyright work on stage in the manner, within a time limit and under conditions provided by a contract, and to pay remuneration to the author for the right acquired, unless otherwise provided by a contract.

(2) The provisions concerning a contract on public stage presentation shall also apply accordingly to public transmitting, broadcasting, retransmission, direct injection, to making available to the public, to public communication of a broadcasting, retransmission, direct injection and making available to the public and providing the public with access to the works uploaded by the users, of stage presentations of the copyright work, as well as public performance and other forms of communication to the public of stage works in the non-stage manner.

### ***Other Obligations of Users***

#### Article 88

The provisions referred to in Article 84 paragraph (3) and Article 85 of this Act shall apply accordingly to the contract on public stage presentation of a copyright work.

### ***4.3.4. Contract on Audiovisual Adaptation***

#### ***General Information Concerning the Contract***

#### Article 89

(1) By a contract on audiovisual adaptation, an author undertakes to establish the right of exploitation by audiovisual adaptation for another person or to grant another person with authorisation to adapt a copyright work into an audiovisual work (hereinafter: the right of audiovisual adaptation). Unless otherwise provided by the contract, it shall be considered that the exclusive right of audiovisual adaptation has been acquired.

(2) If the right of audiovisual adaptation has been acquired as the exclusive right, the author of the original work shall retain:

1. the exclusive right of new audiovisual adaptations of the original work, which he may exercise after the expiration of twenty years from the conclusion of the contract referred to in paragraph (1) of this Article;
  2. the exclusive right of further alteration of the original work into any other artistic form;
  3. the right to an equitable remuneration for any rental of a videogram containing the original work.
- (3) The author cannot renounce the right referred to in paragraph (2) of this Article.

### ***Termination of the Contract***

#### Article 90

(1) If a person who acquired the right of audiovisual adaptation does not create an audiovisual work within five years from the date of having concluded the contract on audiovisual adaptation or if he fails to communicate the finished audiovisual work to the public within two years upon completion of that work, the author of the original work may terminate the contract, unless another time limit has been agreed upon.

(2) In case as referred to in paragraph (1) of this Article, the author of the original work retains the right to the payment of remuneration.

### ***4.3.5. Contract on Audiovisual Production***

#### ***General Information Concerning the Contract***

##### Article 91

- (1) A contract on audiovisual production shall regulate the relations between the audiovisual producer, the principal co-author, other co-authors and the authors of contributions of an audiovisual work.
- (2) A contract on audiovisual production may also regulate the relations between the co-author and the author of a contribution of an audiovisual work.

#### ***Contract on Audiovisual Production between the Audiovisual Producer and the Principal and Other Co-Authors of an Audiovisual Work***

##### Article 92

- (1) A contract on audiovisual production between the audiovisual producer and the principal and other co-authors of an audiovisual work shall regulate the rights and obligations of contracting parties in creating an audiovisual work, the content of the right of exploitation that the principal co-author and other co-authors undertake to establish for the audiovisual producer under that contract, the duration and area for which the rights of exploitation are established, the remuneration that the audiovisual producer undertakes to pay to the principal and other co-authors for the creation of the audiovisual work under the contract and for establishing the right of exploitation of that work and other terms of the contract.
- (2) If the principal co-author and other co-authors of an audiovisual work have entrusted their rental right to the audiovisual producer by the contract referred to in paragraph (1) of this Article, they shall retain the right to an equitable remuneration for the rental of their audiovisual work, which they cannot renounce.
- (3) The remuneration for the rental shall be paid by the person renting the audiovisual work.
- (4) The right to an equitable remuneration for the rental shall be exercised collectively.

#### ***Contract on Audiovisual Production between the Audiovisual Producer and the Authors of Contributions to an Audiovisual Work***

##### Article 93

- (1) Unless otherwise provided by the contract on audiovisual production between the audiovisual producer and the authors of contributions, it shall be considered that the audiovisual producer acquires all the economic rights of the authors of contributions to the extent necessary to fulfil the purpose of the contract.
- (2) Notwithstanding the provisions laid down in paragraph (1) of this Article, the authors of contributions shall retain the right to use individually their contributions to an audiovisual work, provided that the rights of audiovisual producers of that work are not prejudiced thereby. The authors of contributions cannot renounce that right.

#### ***Completed Audiovisual Work***

##### Article 94

- (1) An audiovisual work shall be considered completed when, according to the agreement between the principal director as the principal co-author and the audiovisual producer, the

first standard copy of the work, which is the subject matter of the contract on audiovisual production, is finished.

(2) The destruction of the master of the first standard copy of the audiovisual work shall be prohibited.

(3) If the principal co-author, any of the co-authors or authors of contribution refuses to continue to collaborate in creation of the audiovisual work, or if he is unable to continue to collaborate due to force majeure, he may not oppose to the use of his contribution already made, for the purpose of completion of such work. Such author shall have respective copyright as to the contribution to the audiovisual work he has already made.

### ***Rescinding of Contract***

#### Article 95

(1) If an audiovisual producer of an audiovisual work does not complete the work within five years from the conclusion of the contract on the audiovisual production of such work, or if he does not communicate the completed work to the public within two years from the time of its completion, the principal co-author or any of the co-authors may demand by a unilateral statement that the contract be rescinded, unless any other term has been stipulated in the contract.

(2) The authors of contributions shall have no right to unilateral rescinding of the contract on audiovisual production.

(3) In the case referred to in paragraph (1) of this Article, the principal co-author, other co-authors of the work and authors of contributions shall retain the right to obtain remuneration.

### ***4.3.6. Contract on the Creation of Copyright Work on Commission***

#### ***Content of the Contract***

#### Article 96

(1) By a contract on the creation of a copyright work on commission, an author undertakes to create a certain work and deliver a copy of such work to the person commissioning the work, while the latter undertakes to pay to the author a stipulated remuneration and to use the work in accordance with the contract on commission, unless otherwise provided by the contract.

(2) The contract on the creation of a copyright work made on commission shall also specify characteristics, elements and time limits for delivering the commissioned work, as well as the manner of exploiting the work.

(3) Unless otherwise provided by a contract on the creation of a copyright work on commission or by this Act, the exclusive economic copyright in the commissioned copyright work shall be presumed to have been acquired by the commissioner without space and time limitations, in terms of content and extent necessary for the realisation of the activity he performs.

(4) Unless otherwise provided by a contract on the creation of a copyright work on commission or by this Act, a natural person commissioning a work for private use shall be presumed to have acquired the exclusive economic copyright to exploitation of a copyright work created on commission, in terms of content and extent necessary to fulfil that purpose.

(5) The contract on the creation of an architectural work on commission explicitly states the production of which elements of the architectural work are commissioned, and these elements can be a sketch, study, plastic and other presentation, draft, conceptual design,

conceptual design, main project, execution project, plan, project in space in the field of architecture, urbanism and landscape architecture and others. The presumption of acquisition of the right of exploitation referred to in paragraphs (3) and (4) of this Article shall apply only to those elements of the architectural work which are explicitly stated in the contract on the creation of an architectural work on commission and shall not include processing into those elements which are not explicitly stated.

(6) If the work is commissioned through a public tender, public invitation, public promise of a prize or public procurement, the copyright of exploitation shall be acquired on the basis of a contract on the creation of a copyright work on commission concluded after a public tender, public invitation, public promise of a prize or public procurement, unless otherwise provided in them.

### ***Remuneration***

#### Article 97

(1) The contract on the creation of a copyright work on commission shall specify remuneration for the creation of a copyright work and a remuneration for the exploitation of a copyright work commissioned.

(2) If the contract on the creation of a copyright work on commission specifies a single amount of remuneration, without indicating the type of the remuneration, both remuneration for the creation and remuneration for the exploitation of a copyright work commissioned shall be presumed to have been thereby contracted.

(3) Unless remuneration for the creation of a copyright work and remuneration for the exploitation of a copyright work commissioned are not specified by a contract, the author shall have the right to an equitable and proportionate remuneration to be determined by the rules provided by Article 67 of this Act.

(4) If the remuneration for the exploitation of a copyright work created on commission is earned collectively, the remuneration thus earned shall entirely belong to the author, unless otherwise contracted between the commissioner and the author or deriving from the rules of a relevant collective management organisation or from this Act.

### ***Termination of a Contract***

#### Article 98

(1) In cases of non-fulfilment or delay in fulfilling the obligation of the commissioner, the author is authorised to terminate the contract on the creation of a work on commission in accordance with the provisions of the act governing civil obligations.

(2) At the moment of termination of the contract on the creation of a work on commission the commissioner's right to exploitation of a copyright work shall cease effective from the moment of concluding that contract and the contracting parties are obliged to return to each other everything they received from each other on the basis of that contract.

### ***Special Cases***

#### Article 99

(1) In case the entire business or business facility of the commissioner, in which a copyright work created on commission is or should be exploited, is transferred to another person, it shall be presumed that all copyrights to exploitation referred to in Article 96 paragraph (3) and (5) of this Act in terms of the related copyright works created on commission shall pass on to that person, together with the business or business facility.

(2) In case of termination or death of the commissioner who has no legal successor or heir, the economic copyrights to a copyright work created on commission shall be entirely returned to the author.

#### ***4.3.7. Copyright Work Created in the Course of Employment***

##### ***Copyright Work Created in the Course of Employment***

###### Article 100

(1) A copyright work created in the course of employment shall mean the work created by an author in the execution of his duties with a certain employer as specified in the employment contract. The relations with regard to a copyright work created in the course of employment shall be regulated by this Act, by an employment contract or by other act regulating the employment, or by another contract concluded between the author and the employer.

(2) Unless otherwise provided by an employment contract or by other act regulating employment or another contract concluded between the author and the employer, the employer shall be presumed to have acquired exclusive economic copyrights to exploitation of a copyright work created in the course of employment, without space and time limitation, in terms of content and extent necessary for the realisation of the activity he performs, regardless of the termination of employment during the duration of which the act was created.

(3) The employer shall be presumed to have acquired the author's permission to publish, process and translate the work created in the course of employment and use it, compile it with another work for joint use and include it in a collection or database and thus use it, and to present the work to the public under the employer's name, together with the author's name, if this is possible with regard to the manner of use and unless otherwise agreed with the author of the work. These powers may be exercised by the employer in terms of content and to the extent necessary for the performance of the activity he performs.

(4) The employer shall be presumed to have acquired the author's permission to complete his unfinished work created in the course of employment, in case the author's employment is terminated before the work is completed, as well as in the case when it can be reasonably considered that the author himself will not be able to complete the work properly and timely in accordance with the needs of the employer, unless otherwise agreed with the author of the work.

(5) If the architectural work was created in the course of employment, paragraphs (1) to (4) of this Article shall refer to all elements of the architectural work which include sketches, studies, plastic and other representations, drawings, conceptual solutions, conceptual designs, design development, execution projects, plans, interventions in space in the field of architecture, urbanism and landscape architecture, and the employer shall be authorised to use all or some elements of the architectural work made in the course of employment to make other elements of the same or another architectural work, without limitations and without any additional permission of the author, unless expressly agreed otherwise between the employer and the author.

(6) If a computer programme is created by an employee in the execution of his duties from the employment contract, the employer shall have all the exclusive rights to exploit that computer program, without limitations in terms of content, time and space, unless otherwise provided by the employment contract.

### ***Salary and Special Equitable Remuneration***

#### Article 101

- (1) The right to remuneration for the creation of a copyright work in the course of employment and its exploitation in accordance with Article 100, paragraphs (2) to (6) of this Act shall be exercised by receiving a salary.
- (2) If the exploitation of a copyright work created in the course of employment had a significant contribution to the increase of income or profit or to the improvement of the employer's activities, the author is entitled to a special equitable remuneration, proportional to the contribution of his work to the increase of income or profit or improvement to the performing of the employer's activities, if it is specified in the employment contract, rules of operation, collective agreement or other act governing the employment relationship or in another contract concluded between the author and the employer.
- (3) The right to a special equitable remuneration referred to in paragraph (2) of this Article belongs to the author regardless of the termination of employment during which the copyright work was created.
- (4) If the rights for copyright works created in the course of employment are exercised collectively, the remuneration thus obtained belongs entirely to the author, unless otherwise agreed between the employer and the author or arising from the rules of the appropriate collective management organisation or from this Act.

### ***Special Cases***

#### Article 102

- (1) In case the entire business, business facility or its parts, in which a copyright work created in the course of employment is or should be exploited, is transferred to another person, it shall be presumed that all copyrights to exploitation referred to in Article 100 paragraphs (2) to (6) of this Act in terms of the related copyright works created in the course of employment, irrespective of termination of the employment during which the work was created, shall pass on the person who acquired the business, business facility or its parts.
- (2) In case of termination or death of the employer who has no legal successor or heir, the rights to exploitation referred to in Article 100 paragraph (2) of this Act shall cease to exist.

### ***Copyright Works of Persons in Management Positions in Legal Entities***

#### Article 103

- (1) The provisions referred to in Articles 100 to 102 of this Act shall apply accordingly to copyright works created by a member of the administrative or supervisory body of the company or a person performing another appropriate management function in the company in fulfilment of his obligations to the company.
- (2) The provisions referred to in Articles 100 to 102 of this Act shall apply accordingly to copyright works created by a member of administrative or supervisory bodies or persons in fulfilment of his obligations to other legal persons under private law, such as associations, institutions, foundations and the like, performing another appropriate management function in those legal entities, regardless of the type of legal relationship with the legal entity or the decision of the legal entity to perform the management function.



### ***4.3.8. Copyright Works Created in a State or Public Service***

#### ***Definition of Terms***

##### Article 104

The terms civil servants and employees, state office, state officials, civil servants and employees and members of representative bodies and executive bodies in local and regional self-government, public servants and employees and public service, used in this Act, have the meaning regulated by laws governing state and public service, local and regional self-government, and the rights and obligations of state officials.

#### ***Copyright Works Created in a Civil Service***

##### Article 105

(1) A copyright work created in a civil service is a work created by the author during the civil service - a civil servant or an employee performing his obligations from the civil service. Relations regarding a copyright work created in the civil service shall be regulated by this Act or another act governing the civil service or by an act of the head of the body in which the author performs civil service or by a contract concluded between the competent authority and the author.

(2) Unless otherwise provided by an act governing the civil service or an act of the head of the body in which the author performs civil service or a contract concluded between the competent body and the author, the Republic of Croatia shall be presumed to have acquired exclusive copyright to use a copyright work created during civil service, in terms of content and extent necessary to fulfil the purpose of the civil service, without space and time limitation, and regardless of the termination of the civil service during the duration of which the work was created. Economic exploitation rights for the Republic of Croatia are exercised by the competent authorities.

(3) It is considered that the competent body exercising economic rights in a work created in the civil service for the Republic of Croatia in accordance with paragraph (2) of this Article has obtained the author's permission to publicly publish, process and translate the work created in the civil service, to use such work, combine it with another work for shared use and include it in the collection or database and use it thus, as well as to present the work to the public under the name of the Republic of Croatia and/or the competent authority in which the author performs civil service, together with the author's name, if this is possible considering the manner of use and unless otherwise agreed with the author of the work. These powers may be exercised by the competent authority in the content and to the extent necessary to fulfil the purpose of the civil service.

(4) It is considered that the competent body exercising economic rights for the Republic of Croatia in accordance with paragraph (2) of this Article has obtained the author's permission to complete his unfinished work created in the civil service, in case his civil service ceases before the completion of the work, as well as in the case when it can be reasonably considered that the author will not be able to complete the work himself in an orderly and timely manner in accordance with the needs of the competent authority, unless otherwise agreed with the author of the work.

### ***Salary and Special Equitable Remuneration***

#### Article 106

- (1) The right to remuneration for the creation of a copyright work during civil service and its exploitation in accordance with Article 105, paragraphs (2) to (4) of this Act shall be exercised by receiving a salary.
- (2) If the use of a copyright work created in the civil service is suitable for commercial exploitation, the author is entitled to a special equitable remuneration, proportional to the commercial income generated by his copyright work, if determined by an act regulating the civil service or an act of the head civil service where the author performs civil service, by a collective agreement or by an agreement concluded between the competent authority and the author.
- (3) The right to a special equitable remuneration referred to in paragraph (2) of this Article belongs to the author regardless of the termination of civil service during which the copyright work was created.
- (4) If the rights for copyright works created in the civil service are exercised collectively, the remuneration thus obtained belongs entirely to the author, unless otherwise agreed between the competent authority and the author or arising from the rules of the appropriate collective management organisation or from this Act.

### ***Copyright Works of State Officials***

#### Article 107

The provisions referred to in Articles 105 and 106 of this Act shall apply accordingly to copyright works created by state officials in state authorities and state administration bodies of the Republic of Croatia in the performance and for the purpose of fulfilling official duties.

### ***Copyright Works Created in Local and Regional Self-Government Units***

#### Article 108

The provisions referred to in Articles 105 to 107 of this Act shall apply accordingly to copyright works created by civil servants and employees in local and regional self-government units as well as by members of representative bodies and executive bodies in the performance and for the purpose of fulfilling their obligations in local and regional self-government units.

### ***Copyright Works Created in Public Service***

#### Article 109

The provisions referred to in Articles 100 to 103 of this Act shall apply accordingly to copyright works created by public servants and employees in performing public service.

### ***Copyright Works Created in Scientific, Artistic, Teaching and Professional Work at Higher Education Institutions and Scientific Organisations***

#### Article 110

- (1) With regard to copyright works created by scientists, associates and teachers elected to scientific-teaching, artistic-teaching, scientific, teaching, associate and professional titles, in the performance of their teaching, educational or similar activities, in higher education

institutions and scientific organisations, Articles from 100 to 103 and Article 109 of this Act shall apply.

(2) Copyright on copyright works created by scientists, associates and teachers elected to scientific-teaching, artistic-teaching, scientific, teaching, associate and professional titles, in accordance with the act governing scientific and artistic activity and higher education, in the performance of their scientific, research, professional, artistic or similar activities, at higher education institutions and in scientific organisations, belong to their authors, without limitations, unless provided otherwise by the employment contract, other act regulating the employment relationship, collective agreement or other contract with the author.

(3) Higher education institutions and scientific organisations may adopt rules on the management of copyright works and related copyrights at higher education institutions and scientific organisations, in accordance with this Act.

### ***4.3.9. Copyright Works of Students***

#### ***Student Copyright***

##### Article 111

(1) Copyrights on copyright works created by students at any study at higher education institutions belong to their authors without limitations, unless provided otherwise by this Act, the rules referred to in paragraph 3 of this Article, the study contract or other contract with the student.

(2) The provision of paragraph 1 of this Article refers to copyright works created by students in the performance of their student obligations in undergraduate, graduate and postgraduate studies, such as final and seminar papers, papers created as a result of scientific research, works of art and the like.

(3) Higher education institutions, in accordance with the rules on quality assurance in science and higher education, shall adopt rules on the handling and use of copyright works referred to in paragraphs (1) and (2) of this Article and publish them in a visible place on their website. The rules shall be adopted by the highest body of such legal entity, such as the senate or council, in accordance with the regulations and the act regulating the structure and competencies of the body of that legal entity.

(4) Before the start of studies, i.e. before concluding the study contract, the student must be adequately acquainted with the rules referred to in paragraph 3 of this Article and must agree to them in writing in order to apply to him student.

(5) The student may not object to his dissertation created at any higher education institution being made available to the public on the appropriate public online database of the university library, university constituent library, polytechnic or college library and/or on the public online database of dissertations of the National and University Library, in accordance with the act governing scientific and artistic activities and higher education.

(6) If, in order to obtain protection by a patent, industrial design or other industrial property right, in accordance with special regulations governing industrial property rights, it is necessary to temporarily maintain the confidentiality of the content or part of the content of the thesis, the student may request postponement of publication referred to in paragraph 5 of this Article until the conditions for achieving adequate protection of industrial property rights are met or until the need for confidentiality ceases.

## Chapter 5

### RELATION BETWEEN COPYRIGHT AND OWNERSHIP

#### *General Information Concerning the Relation between Copyright and Property Rights*

##### Article 112

- (1) Copyright is individual and independent from ownership and other proprietary rights in an object on which the copyright work is fixed.
- (2) Ownership and other proprietary rights in an object on which a copyright work is fixed shall not be, without the authorisation of the copyright holder, exercised contrary to copyright, unless otherwise provided by this Act.

#### *Independence of Legal Transactions*

##### Article 113

- (1) Disposition of copyright shall not affect the ownership in an object on which the work is fixed, unless otherwise provided by this Act or a contract.
- (2) Disposition of ownership in an object on which the copyright work is fixed, shall not affect the copyright in such work, unless otherwise provided by this Act or a contract.

#### *Destruction of Copyright Work*

##### Article 114

- (1) The owner of an original of a copyright work who knows or has reasonable grounds to know that the author or any of the co-authors has a special interest in saving such original from destruction, shall be obliged, before destroying it, to notify them about the intention of destruction and shall offer them to buy off the original at a price equivalent to its real value. Where the return of the original to the possession of the author is not possible, the owner shall allow the author to make a copy of the copyright work in a corresponding manner. If the author does not want to buy off the original, the owner is free to destroy it, but shall, at the author's request, allow him to photograph or tape it before destruction.
- (2) The owner of objects containing copies of a copyright work shall not have obligations referred to in paragraph (1) of this Article, unless he knows or must know that neither the original nor other copies of that work exist.
- (3) The owner of the object on which a copyright work has been fixed without his authorisation, may destroy the object, without obligations referred to in paragraphs (1) and (2) of this Article.
- (4) The provisions set out in paragraphs (1) and (2) of this Article shall not apply to works of architecture. The owner of a work of architecture shall only be obliged to notify the author about the destruction, and shall allow him, at his request, to photograph or tape that work and shall deliver to him a copy of the design of that work, if he has it.

#### *Alterations and Restoration of an Architectural Work*

##### Article 115

- (1) In the case of necessary alterations to an architectural work, the interests of its owner must be taken into account. The author of a work of architecture may not oppose to the necessary alterations to his architectural work resulting from the noncompliance with the basic requirements for a building from the law governing construction.

(2) Where the work of architecture needs to be restored due to noncompliance with the basic requirements for the building from the law governing construction, its author may not oppose to the use of other materials if the materials used in the construction thereof proved to have deficiencies, or if such materials could not be obtained, or if they can be obtained only with disproportionate difficulties or expenses.

(3) In the cases referred to in paragraphs (1) and (2) of this Article, where the work of architecture is designated by his name, the author shall be entitled to demand that the owner of the building, beside the name of the author make a note concerning necessary alterations of the work of architecture and the time they were made or to erase his name.

(4) In case of need for alteration or restoration of a work of architecture created on the basis of a public tender or financed by public funds or in case a work of architecture has been awarded a professional award, the consent of the author of the work of architecture must be obtained for each alteration. The author shall not deny consent without a justifiable reason and is obliged to give consent in a way that does not cause disproportionate expenses to the owner of the work of architecture or a significant delay in alteration or restoration of the work of architecture.

(5) If a work of architecture is a protected cultural property, during the alteration, including restoration, of such work for any reason, the author of such work is not authorised to oppose to alterations of his work of architecture required by the decision of the competent authority in accordance with the law governing preservation and protection of cultural property.

(6) The author of a work of architecture that alters, and restores cultural property, is not authorised to oppose to alterations of his work of architecture, including restoration of cultural property, which according to the decision of the competent authority are required under the law governing the preservation and protection of cultural property.

### ***Right of Access to the Copyright Work***

#### Article 116

(1) Regardless of economic copyrights that the author has under this Act or had previously or subsequently at his disposal, he may require from the owner or direct possessor of the original or a copy of the copyright work to allow him access to his work, if such access is indispensable for making copies of the copyright work or its alteration, and is not contrary to any legitimate interests of the owner or possessor.

(2) Provisions of this Article do not oblige the owner or direct possessor to deliver to the author the original or a copy of the copyright work.

### ***Right to Prohibit Public Exhibitions of the Copyright Work***

#### Article 117

(1) The author of an undisclosed work of visual art, applied art, industrial design, and an undisclosed photographic work, shall have upon alienation of the original or a copy of that work, the right to prohibit to its owner to exhibit the work to the public. The prohibition shall be set in writing.

(2) The author shall not have the right referred to in paragraph (1) of this Article, if the work belongs to a museum, gallery or other similar public institution.

***Obligations of the Author and an Heir to the Work of Visual Arts against the Owner***

Article 118

- (1) If the author has alienated his work of visual art under his name, he or his heir shall issue a certificate of authorship to the owner of that work on request.
- (2) Paragraph (1) of this Article shall also apply in case where an heir has alienated the work of visual art after the author's death, and the author did not state for life in writing that he did not wish to be indicated as the author of that work.

**CHAPTER 6  
TIME LIMITATIONS OF COPYRIGHT**

***General Provisions on Duration of Copyright***

Article 119

Copyright shall run for the life of the author and for 70 years after his death, irrespective of the date when the work is lawfully released, unless otherwise provided by this Act.

***Duration of Copyright for Co-Authors' Work***

Article 120

- (1) If the co-authors are the holders of joint copyright in the created copyright work, the term referred to in Article 119 of this Act shall be calculated from the death of last surviving co-author.
- (2) For audiovisual works, the term referred to in Article 119 of this Act shall be calculated from the death of the last of the following persons to survive: the principal director, the author of the screenplay, the author of the dialogue, and the composer of music specifically created for use in the audiovisual work.

***Duration of Copyright for a Musical Work with Lyrics***

Article 121

- (1) As regards a musical work with lyrics, the term referred to in Article 119 of this Act shall be calculated from the death of the last surviving among the authors of the music and the authors of the text who have created the music or the text, respectively, specifically for the use in such musical work with lyrics.
- (2) If the music or the text, respectively, has not been created specifically for the use in such musical work with lyrics, but independently from one another, the term of protection referred to in Article 119 of this Act shall apply to each one of them separately.

***Duration of Copyright for Anonymous Work***

Article 122

Copyright in anonymous works shall run for 70 years after the work has been lawfully disclosed. If the author discloses his identity during such period, the term of protection set out in Article 119 of this Act shall apply.

***Duration of Copyright for Pseudonymous Work***

Article 123

- (1) Copyright in pseudonymous works shall run for 70 years after the work is lawfully disclosed. If the author discloses his identity during such period, the term of protection set out in Article 119 of this Act shall apply.
- (2) Where a pseudonym leaves no doubt as to the identity of the author, the term of protection set out in Article 119 of this Act shall apply.

***Duration of Copyright for the Work Disclosed in Series***

Article 124

Where a work is disclosed in volumes, parts, sequels, issues or episodes and the term of protection runs from the time when the work was lawfully disclosed, the term of protection shall run for each such item separately.

***Duration of Copyright for Undisclosed Work***

Article 125

Where the term of protection is not calculated from the death of the author, and where the work has not been lawfully disclosed, the copyright shall expire upon the expiration of a period of 70 years from the creation of the work.

***Calculation of Terms***

Article 126

Terms of copyright laid down in this Act shall be calculated from the 1<sup>st</sup> January of the year following the year in which the relevant event has occurred.

***Effects of Expiration of Terms***

Article 127

- (1) By the expiration of copyright, a copyright work shall become a public good, and may be used freely, with the obligation of recognising authorship, paying respect to the work, and to the honour or reputation of the author.
- (2) Against those who do not comply with the obligation referred to in paragraph (1) of this Article, the author's heirs, the associations of the authors the author belonged to, other persons having legal interest in it and the Croatian Academy of Sciences and Arts, shall be entitled to demand the termination of infringement of such obligation.

**PART THREE**  
**RELATED RIGHTS**

**Chapter 1**

**RIGHTS OF PERFORMERS**

*Performers*

Article 128

Performers shall mean actors, singers, musicians, dancers and other persons who act, sing, declaim, interpret, play in, or otherwise perform literary or artistic copyright works or expressions of folklore. A director of theatrical performance and a conductor of an artistic ensemble shall be also deemed performers.

*Presumption of a Performer*

Article 129

A natural person whose name, pseudonym, artistic sign or code is in the usual way indicated on copies of the performance or when the performance is published shall be presumed a performer, until proven otherwise.

*Representative of an Artistic Ensemble*

Article 130

- (1) Performers who are members of an artistic ensemble may authorise, in a written form, one of their members or a third person to represent them in the exercise of their performers' right, in terms of the performances they perform within that artistic ensemble.
- (2) The authorisation referred to in paragraph (1) of this Article shall require the consent of the majority of members of an artistic ensemble, unless otherwise provided by the internal rules of the ensemble. It shall be presumed that performers who are not members of an ensemble but participate in a particular performance of that ensemble have also given their consent.
- (3) The provisions of this Article shall not apply to conductors, soloists, directors of theatrical performances and players of leading roles, who are not members of the ensemble, unless otherwise agreed between them and the artistic ensemble.

*1.1. Moral Rights of Performers*

*Right of Recognition of a Performer*

Article 131

- (1) A performer shall have the right to be recognised and indicated as such.
- (2) A person who publicly uses a performance shall at any use indicate a performer, except where the performer declares in a written form that he does not want to be indicated as such or where the manner of individual public use of the artistic performance makes it impossible to indicate the performer.



### ***Right of Respect for Artistic Performance***

#### Article 132

(1) A performer shall have the right to oppose to any distortion, mutilation or similar modification of his performance, and the right to oppose to any destruction of the original or of the last copy of his fixed artistic performance, under effective application of the provisions referred to in Article 114 paragraphs (1) to (3) of this Act.

(2) Minor modifications, alterations, adaptations or remakes, which do not affect the basic character of an artistic performance, shall not be considered distortion, mutilation or similar modification within the meaning of paragraph (1) of this Article.

### ***Right of Respect for Honour and Reputation of a Performer***

#### Article 133

A performer shall have the right to oppose to any use of the performance in the manner to infringe his honour or reputation.

### ***1.2. Economic Rights of Performers***

#### ***Reproduction***

#### Article 134

A performer shall have the exclusive right to fix his unfixed performances and to further reproduce his fixed performances.

#### ***Distribution, Rental Right and Lending Right***

#### Article 135

(1) A performer shall have the exclusive right to distribute, including the rental right, of his fixed performance and the right to an equitable remuneration if the copies of his fixed performance permitted to be further distributed are being lent through public libraries.

(2) A performer, who entrusts his rental right to a producer of phonograms or to an audiovisual producer, shall retain his right to an equitable remuneration for the rental of his fixed performance. Remuneration for the rental shall be paid by the person renting the artistic performance.

(3) The performer may not renounce the right to an equitable remuneration for the public lending referred to in paragraph (1) of this Article or the right to an equitable remuneration for the rental referred to in paragraph (2) of this Article. The right to an equitable remuneration for the public lending and the right to an equitable remuneration for the rental shall be exercised collectively only.

### ***Communication of an Artistic Performance to the Public***

#### Article 136

(1) A performer shall have the exclusive right to communicate to the public his unfixed and fixed performances including in particular:

- the right of public performance;
- the right of public transmission;
- the right of public communication of a fixed performance;
- the right of public presentation of an audiovisual performance;

- the right of broadcasting;
  - the right of retransmission;
  - the right of direct injection;
  - the right of making available to the public;
  - the right of public communication of broadcasting, retransmission, direct injection and making available to the public;
  - the right of communication to the public, including an act of making available to the public within an ancillary online service;
  - the right of communication to the public, including an act of making available to the public with providing the public with access to performances uploaded by users on platforms for online content-sharing; and
  - other manners of communication to the public.
- (2) A performer shall be entitled to a share in a single equitable remuneration for broadcasting and any other communication to the public of his fixed performance. The single equitable remuneration consists of individual remunerations which belong to the performers and the producers of phonograms.
- (3) If an unfixed musical performance or a musical performance fixed in a phonogram is incorporated in an audiovisual work, a performer shall retain the exclusive right of communication to the public or a share in a single equitable remuneration referred to in paragraph (2) of this Article, which he cannot renounce.

### ***Use of Performance for Completion of Audiovisual Work***

#### Article 137

If a performer refuses to complete his performance in an audiovisual work, or if he is unable to do so due to force majeure, he may not oppose to the use of his performance already made, for the purpose of completion of such audiovisual work. Such performer shall have adequate rights of a performer as to the contribution to an audiovisual work he has already made.

### ***Duration of Rights***

#### Article 138

- (1) The right of a performer shall run for 50 years as from the performance.
- (2) If, within the period referred to in paragraph (1) of this Article, the performance fixed in a phonogram is lawfully published or lawfully communicated to the public, the right shall expire upon 70 years from the first such publication or the first such communication to the public, whichever occurred earlier.
- (3) If, within the period referred to in paragraph (1) of this Article, a fixation of the performance which is not a phonogram is lawfully published or lawfully communicated to the public, the right shall expire upon 50 years from the first such publication or first such communication to the public, whichever occurred earlier.

### ***1.3. Effective Application of the Provisions on Copyright***

#### ***Effective Application of the Provisions on Copyright***

#### Article 139

The provisions referred to in Articles 5, 17, 25, 26, 33, 34, Articles from 36 to 53, Articles from 55 to 71, Articles from 84 to 86, Articles from 96 to 114, and Articles 126 and

127 of this Act shall apply accordingly and pursuant to the provisions under this Chapter to the rights of a performer as well, unless otherwise provided specifically for him or arising from the legal nature of the rights of performers.

## **Chapter 2**

### **RIGHT OF PRODUCERS OF PHONOGRAMS**

#### *Phonogram and a Phonogram Producer*

##### Article 140

- (1) A phonogram shall mean the fixation of the sounds of a performance or of other sounds or of representations of sounds, other than in the form of fixations incorporated in an audiovisual work.
- (2) Phonogram producer shall be a natural or a legal person, who or which takes the initiative and has the responsibility for the first fixation of a phonogram.

#### *Presumption of a Phonogram Producer*

##### Article 141

It shall be considered that the phonogram producer is the one whose name or company name is regularly indicated as the holder of the rights of phonogram producers on the phonogram, until proven to the contrary.

#### *Rights of Phonogram Producers*

##### Article 142

- (1) A phonogram producer shall have the following economic rights:
- the exclusive right to reproduce his phonograms;
  - the exclusive right to distribute his phonograms, including the rental right and the right to an equitable remuneration if his phonograms permitted to be further distributed are being lent through public libraries; the right of remuneration for the public lending shall be exercised collectively only;
  - the exclusive right to make his phonograms available to the public;
  - the exclusive right to communicate his phonograms to the public, including an act of making available to the public, within an ancillary online service;
  - the exclusive right to communicate his phonograms to the public, including an act of making available to the public with providing public access to the phonograms uploaded by users on platforms for online content-sharing;
  - the right, in accordance with Article 136 paragraph (2) of this Act, to a share in a single equitable remuneration for: public communication, public presentation, broadcasting, retransmission, direct injection, public communication of broadcasting, retransmission, direct injection and making available to the public and any other communication to the public of his phonograms issued for commercial purposes; this right shall be exercised collectively only.
- (2) The rights to phonogram shall in no way be limited by its incorporation into an audiovisual work.
- (3) If a phonogram issued for commercial purposes is incorporated in an audiovisual work, the phonogram producer shall retain the right to a share in a single equitable

remuneration referred to in paragraph (1) subparagraph 6 of this Article, which he cannot renounce. The right to such remuneration shall be exercised collectively only.

### ***Rights of Phonogram Producers in Legal Transactions***

#### Article 143

Disposition with the rights of phonogram producers shall be free.

### ***Duration of Rights***

#### Article 144

The rights of a phonogram producer shall run for 50 years as from the first fixation of a phonogram. If, within this period, the phonogram is lawfully published, the rights shall run for 70 years as from the first such publication. If, within this period, the phonogram is not lawfully published, but is lawfully communicated to the public, the rights shall run for 70 years as from the first such communication to the public.

### ***Effective Application of the Provisions on Copyright***

#### Article 145

The provisions referred to in Articles 5, 17, 25, Article 26 paragraph (3), Articles 33 and 34, Articles from 36 to 53, Article 55, Articles from 58 to 63, Articles from 65 to 71, Articles from 84 to 86, Articles from 96 to 114, and Articles 126 and 127 of this Act shall apply accordingly and pursuant to the provisions under this Chapter to the rights of a phonogram producer as well, unless otherwise provided specifically for him or deriving from the legal nature of the rights of phonogram producers.

## **Chapter 3**

### **CONTRACTS BETWEEN PERFORMERS AND PHONOGRAM PRODUCERS**

#### ***Termination of a Contract between a Performer and a Phonogram Producer***

#### Article 146

(1) If, 50 years after the phonogram was lawfully published, or failing such publication, respectively, 50 years after it was lawfully communicated to the public, the phonogram producer does not offer copies of the phonogram for sale in the quantity satisfying reasonable needs of the public or does not make it available to the public, the performer may terminate the contract which was concluded for the whole duration of the protection of the performer's rights and by which the phonogram producer was granted the right of exploitation of the performance fixed on a phonogram.

(2) Prior to the termination of the contract referred to in paragraph (1) of this Article, the performer shall notify the phonogram producer that he is obliged to issue the phonogram within a period of one year, counting from the day of receipt of the written notification of the performer.

(3) The performer may not waive the right to terminate the contract referred to in paragraph (1) of this Article.

(4) If a plurality of performers participated in the creation of a performance, they may terminate the contract referred to in paragraph (1) of this Article jointly or in accordance with the provision of Article 130 of this Act.

(5) If the performer terminated the contract in accordance with paragraph (1) of this Article, the rights of the phonogram producer in this phonogram shall expire upon the expiration of 50 years from the lawful publication of the phonogram or, failing such publication, 50 years from its lawful communication to the public.

### ***Annual Supplementary Remuneration***

#### Article 147

(1) If, according to the contract between a performer and a phonogram producer, which was concluded for the whole term of protection of the performer's rights and by which the phonogram producer was granted the right of exploitation of the performance fixed in a phonogram, the performer has acquired a right to obtain a one-off remuneration, the performer, according to this Act, shall acquire a right to obtain an annual supplementary remuneration.

(2) The phonogram producer shall pay to the performer an annual supplementary remuneration for each full year following the 50<sup>th</sup> year after the phonogram was lawfully published or, failing such publication, the 50<sup>th</sup> year after it was lawfully communicated to the public, respectively.

(3) The performer may not waive the right to obtain the annual supplementary remuneration. This remuneration shall be exercised collectively only.

(4) The annual supplementary remuneration shall amount to 20% of the revenue which the phonogram producer has derived from the reproduction, distribution and making available to the public of the phonogram containing the fixed performance of the performer, and it shall be calculated on the basis of the revenue derived by the phonogram producer in the year proceeding the year for which it is due.

(5) The phonogram producer shall give to the performer, to the person authorised by him as well as to the appropriate collective management organisation, any information necessary for payment of the annual supplementary remuneration.

### ***Rebalance of the Content of Contracts for the Benefit of Performers***

#### Article 148

(1) If, according to the contract between a performer and a phonogram producer, which was concluded for the whole term of protection of the performer's rights and by which the phonogram producer was granted the right of exploitation of the performance fixed in a phonogram, the performer has acquired a right to obtain a recurring remuneration, neither possibly earlier paid advances nor any possible other deductions defined by such contract shall be deducted when calculating the amount of such remuneration.

(2) The provision referred to in paragraph (1) of this Article shall apply after the expiration of 50 years from the lawful publication of a phonogram or, failing such publication, 50 years from its lawful communication to the public, respectively.

(3) A performer shall be entitled to require rebalance of the contract he concluded with a phonogram producer before 1 November 2013, after the expiration of 50 years from the lawful publication of a phonogram or, failing such publication, 50 years from its lawful communication to the public.

(4) If a performer and a phonogram producer fail to achieve an agreement concerning an equitable rebalance of the contract referred to in paragraph (3) of this Article, the rights of the phonogram producer in such phonogram shall expire upon the expiration of 50 years from the lawful publication of the phonogram or, failing such publication, 50 years from its lawful communication to the public, respectively.

***Contract on Online Exploitation of a Musical Artistic Performance***

Article 149

- (1) By the contract on the online exploitation of musical artistic performance, the performer undertakes to grant the phonogram producer with the right to make it available to the public, and the appropriate right of reproduction (hereinafter: the right of online exploitation of musical artistic performance), and the phonogram producer undertakes to exploit artistic performance as agreed and to pay agreed remuneration to the performer for the acquired rights, unless otherwise provided by the contract, and to take care of the successful exploitation of the online artistic performance and provide the performer with information on the exploitation in accordance with the provisions of this Act.
- (2) The contract referred to in paragraph (1) of this Article shall be concluded in writing.
- (3) The phonogram producer is obliged to conclude the contract referred to in paragraph (1) of this Article in relation to the artistic performance he exploits online with all performers participating in the artistic performance.
- (4) If the phonogram producer does not enter into a contract referred to in paragraph (1) of this Article with one of the performers participating in the artistic performance or the contract referred to in paragraph 1 of this Article does not contain all the provisions referred to in paragraph (1) of this Article, it shall be presumed for these performers that the rights of exploitation of their musical artistic performance online are exercised collectively, according to the phonogram producer.
- (5) If the performer is also a producer of phonograms in respect of his artistic performance in the sense of this Act, the provisions of this Article shall not apply to him and he may freely dispose of his rights as a performer and the rights of a phonogram producer.

**Chapter 4**

**RIGHTS OF AUDIOVISUAL PRODUCERS**

***Videogram and an Audiovisual Producer***

Article 150

- (1) A videogram shall be, within the meaning of Article 33 paragraph (1) of this Act, a fixation of an audiovisual work, as well as of a sequence of moving images accompanied by sound or without sound.
- (2) An audiovisual producer shall mean a natural or a legal person, including television publishers, music video producers and other videogram producers, who or which in its own name takes the initiative, raises funds, organises and takes the responsibility for making of the first fixation of a videogram.

***Presumption of an Audiovisual Producer***

Article 151

An audiovisual producer shall be presumed the one whose name or company name is regularly indicated as the holder of the rights of the audiovisual producer on copies of a videogram, until proven to the contrary.

### ***Rights of an Audiovisual Producer***

#### Article 152

An audiovisual producer shall have the following economic rights:

- the exclusive right of reproduction of his videograms;
- the exclusive right of distribution, including the rental of his videograms and the right to an equitable remuneration if his videograms, which are permitted to be further distributed, are being lent through public libraries; the right to a remuneration for public lending shall be exercised collectively only;
- the exclusive right of public presentation of his videograms;
- the exclusive right of making his videograms available to the public;
- the exclusive right of communicating his videograms to the public, including an act of making available to the public, within an ancillary online service;
- the exclusive right of communicating his videograms to the public, including an act of making available to the public with providing the public with access to the videograms uploaded by users on platforms for online content-sharing.

### ***Rights of an Audiovisual Producer in Legal Transactions***

#### Article 153

Disposition with the right of the audiovisual producer shall be free.

### ***Duration of Rights***

#### Article 154

The right of an audiovisual producer shall run for 50 years as from the date of the first fixation of a videogram. If the videogram is lawfully published or lawfully communicated to the public during this period, the right of the audiovisual producer shall run for 50 years as from the date of the first such publication or the first such communication, whichever occurred earlier.

### ***Effective Application of the Copyright Provisions***

#### Article 155

The provisions referred to in Articles 5, 17 and 25, Article 26 paragraph (3), Articles 33, 34, 36, 41 and 46, Articles from 50 to 53, Article 55, Article 56, Articles from 58 to 63, Articles from 65 to 71, Articles from 84 to 86, Articles from 96 to 114, and Articles 126 and 127 of this Act shall apply accordingly and pursuant to the provisions under this Chapter to the rights of an audiovisual producer as well, unless otherwise provided specifically for him or deriving from the legal nature of the rights of audiovisual producers.

## **Chapter 5**

### **RIGHT OF BROADCASTING ORGANISATIONS**

#### ***Programme Signal, Broadcasting Organisation***

#### Article 156

(1) Programme signal is a television or radio signal transmitting a content and intended for reception by the public, wirelessly (including satellite) or by wire.

(2) A broadcasting organisation shall mean a legal person that takes initiative and has editorial responsibility to compile, distribute and broadcast, including direct injection, of a programme transmitted by a programme signal.

(3) The subject matter of the right of a broadcasting organisation is programme signal.

### ***Presumption of a Broadcasting Organisation***

#### Article 157

A broadcasting organisation shall be presumed an organisation the name of which is indicated with broadcasting, by highlighting a visual mark on the screen or otherwise, as the name of the right holder on the programme signal, until proven to the contrary.

### ***Rights of a Broadcasting Organisation***

#### Article 158

(1) A broadcasting organisation shall have the following economic rights:

- the exclusive right to fix its unfixed programme signals;
- the exclusive right to reproduce its fixed programme signals;
- the exclusive right to distribute its fixed programme signals, except the rental right and the right to remuneration for public lending;
- the exclusive right to broadcast its programme signals;
- the exclusive right to retransmit its programme signals;
- the exclusive right to direct injection of its programme signals;
- the exclusive right to publicly communicate its programme signals broadcast, retransmitted, transmitted by direct injection or made available to the public, if such communication is available to the public against payment of an admission;
- the exclusive right to make its programme signals available to the public;
- the exclusive right to communicate its programme signals to the public, including an act of making available to the public within an ancillary online service; and
- the exclusive right to communicate to the public, including an act of making available to the public with providing the public with access to the programme signals uploaded by users on platforms for online content-sharing.

(2) Programme signal cannot be the subject of public lending.

(3) A broadcasting organisation shall also have exclusive rights in its ancillary online services.

(4) A cable or another operator who merely retransmits programme signals or communicates them to the public by direct injection shall not be a broadcasting organisation.

(5) An entity that transmits a programme exclusively via computer networks and does not have editorial responsibility for compiling, distributing and broadcasting the programme shall not be considered a broadcasting organisation.

### ***Rights of Broadcasting Organisations in Special Cases***

#### Article 159

(1) When a natural or legal person who is not a professional journalist or photojournalist, with whom the broadcasting organisation has not entered into a contract on order or is employed with it, on its own initiative or at the non-binding general or individual invitation of the broadcasting organisation delivers to the broadcasting organisation in any manner a copyright work or a subject matter of related right of journalistic nature whose purpose is to inform the public about current news or other current topics, with the aim of publishing it



within its programme signal, and such aim is implied whenever a person does not explicitly state otherwise in writing. with delivery, it is considered, according to this Act, that the broadcasting organisation is authorised to use such work or subject matter of related right in the same way as if it were the commissioner of such copyright work or subject matter of related right and that it has acquired non-exclusive economic rights to exploitation of a delivered copyright work or subject matter of related rights in content and extent necessary for the realisation of the activity it performs, without space and time limitations.

(2) In the cases referred to in paragraph (1) of this Article, the broadcasting organisation has no obligation to use the delivered copyright work or subject matter of related rights or the obligation to return the delivered copy of the used or unused copyright work or subject matter of related rights.

(3) For the cases referred to in paragraph (1) of this Article, the broadcasting organisation shall publish on its website the general conditions of use of the delivered copyright works and subject matter of related rights, in which it will, *inter alia*, determine whether and in which cases and in what amount, persons who deliver to the broadcasting organisation copyright works or subject matter of related rights have the right to a remuneration for use.

### ***Rights of a Broadcasting Organisation in Legal Transactions***

#### Article 160

Disposition with the right of a broadcasting organisation shall be free.

### ***Duration of Rights***

#### Article 161

The right of a broadcasting organisation shall run for 50 years counting from the date of the first broadcast of programme signal or from the first transmission of programme signal by direct injection, irrespective of whether it is by wire or wireless means.

### ***Effective Application of the Copyright Provisions***

#### Article 162

The provisions referred to in Articles 5, 17, 25, Article 26 paragraph (3), Articles 33, 34, and 36, Articles from 40 to 53, Articles from 58 to 63, Articles from 65 to 71, Articles from 84 to 86, Articles from 96 to 114, and Articles 126 and 127 of this Act shall apply accordingly and pursuant to the provisions under this Chapter to the rights of a broadcasting organisation as well, unless otherwise provided specifically for it or deriving from the legal nature of the rights of broadcasting organisations.

## **Chapter 6**

### **RIGHTS OF PUBLISHERS OF PRESS PUBLICATIONS**

#### ***Press Publication, Information Society Service, a Publisher of Press Publications***

#### Article 163

(1) A press publication is a collection composed mainly of literary works of a journalistic nature, which may also include other works or other subject matter of related rights, including photographs and video content, and which represents an individual element within a

periodical or regularly updated publication, published under a single title, with the purpose of providing the public with information related to news or other topics, such as newspapers or magazines of general or special topics, and which is published in any media under the initiative, editorial responsibility and control of the newspaper or publication editor or newspaper publisher or media publisher or media service provider.

(2) Periodicals published for scientific or academic purposes, such as scientific journals, shall not be considered publications referred to in paragraph (1) of this Article.

(3) An information society service is any service that is normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services. The provision of services at a distance means that the service is provided without the parties being simultaneously present. By electronic means shall mean that the service is sent initially and received at its destination by means of electronic equipment for the processing, including digital compression, and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means. At the individual request of a recipient of services means that the service is provided through the transmission of data on individual request.

(4) A publisher of press publications is a newspaper publisher, media publisher or media service provider, as defined by the law governing the media and the law governing the electronic media (for example, a news publisher or news agency), when publishing the press publications referred to in paragraph (1) of this Article.

### ***Presumption of a Publisher of Press Publications***

#### Article 164

A publisher of press publications is considered to be a publisher whose name or title is regularly indicated in the usual way in a press publication or with a press publication by highlighting a visual mark or in another way, as the name of the right holder on a press publication, until proven otherwise.

### ***Rights of Publishers of Press Publications except in Relation to the Use by Information Society Service Providers***

#### Article 165

(1) A publisher of press publications shall have the following economic rights with regard to his press publications or parts of press publications:

- the exclusive right to reproduction;
- the exclusive right to distribution, including the rental right and the right to an equitable remuneration of his press publications, permitted to be further distributed, are being lent through public libraries; the rental right and the right to remuneration for the public lending shall be exercised collectively only;
- the exclusive right to communication to the public in any manner, including an act of making available to the public; and
- the exclusive right to adaptation.

(2) The rights referred to in paragraph (1) of this Article shall apply to publishers of press publication with a place of establishment in a Member State of the European Union.

(3) The rights referred to in paragraph (1) of this Article shall not apply to information society service providers.

***Rights of Publishers of Press Publications in Relation to the Use by Information Society Service Providers***

Article 166

- (1) Where press publications or any part thereof are used online by an information society service provider, a publisher of press publications shall have the exclusive right with regard to his press publications:
- to reproduction;
  - to communication to the public in any manner, including an act of making available to the public.
- (2) The rights referred to in paragraph (1) of this Article shall apply to publishers of press publication with a place of establishment in a Member State of the European Union.
- (3) The rights referred to in paragraph (1) of this Article shall not apply to:
1. individual users who use press publications and parts thereof for private and non-commercial purposes;
  2. actions of hyperlinking;
  3. the use of individual words or very short excerpts, with no more than a few words and without any photos or video contents, from press publications, provided that such use does not prejudice the effectiveness of the exclusive rights referred to in paragraph (1) of this Article. The effectiveness of the exclusive rights shall in particular be prejudiced where the use of very short excerpts substitutes the press publication itself or where a reader is dissuaded from referring to it.

***Right of Newspaper Authors to a Share in the Remuneration of Publishers of Press Publications***

Article 167

- (1) Professional journalists and photojournalists whose copyright works are included in press publications are entitled to an appropriate share in the equitable remuneration earned by the publishers of those press publications when their press publications on the Internet are used by information society service providers within the meaning of Article 166 of this Act. This right shall be exercised collectively only.
- (2) A share in the remuneration referred to in paragraph (1) of this Article shall not be considered a salary.

***A Publisher of Press Publications as a Commissioner or Employer***

Article 168

- (1) Notwithstanding Article 96, paragraph (3) and Article 100, paragraphs (2) to (4) of this Act, the author or the holder of a related right shall reserve the right to use a copyright work or subject matter of a related right created on commission of a publisher of press publications or employed by a publisher of press publications, in a manner that is not contrary to the interests of the publisher of press publications but is not allowed to establish the right to exploit the copyright work for another publisher of press publications or for the provider of information society services.
- (2) Notwithstanding Article 97, paragraph (4) and Article 101, paragraph (4) of this Act, if the rights to copyright works created on commission of the publisher of press publications or employed by the publisher of press publications are exercised collectively, the remuneration

thus earned shall be divided between the author, on the one hand, and the publisher of press publications, on the other.

### ***Rights of Publishers of Press Publications in Special Cases***

#### Article 169

(1) When a natural or legal person who is not a professional journalist or photojournalist, with whom a publisher of press publications has not entered into a contract on order or another contract or is employed with it, on its own initiative or at the non-binding general or individual invitation of the publisher of press publications delivers to the publisher of press publications in any manner a copyright work or a subject matter of related right of journalistic nature whose purpose is to inform the public about current news or other current topics, with the aim of publishing it within its press publication, and such aim is implied whenever a person does not explicitly state otherwise in writing. With delivery, it is considered, according to this Act, that the publisher of press publications is authorised to use such work or subject matter of related right in the same way as if it were the commissioner of such copyright work or subject matter of related right and that he has acquired non-exclusive economic rights to exploitation of a delivered copyright work or subject matter of related rights in content and extent necessary for the realisation of the activity he performs, without space and time limitations.

(2) In the cases referred to in paragraph (1) of this Article, the publisher of press publications has no obligation to use the delivered copyright work or subject matter of related rights or the obligation to return the delivered copy of the used or unused copyright work or subject matter of related rights.

(3) For the cases referred to in paragraph (1) of this Article, the publisher of press publications shall publish on its website the general conditions of use of the delivered copyright works and subject matter of related rights, in which it will, *inter alia*, determine whether and in which cases and in what amount, persons who deliver to the publisher of press publications copyright works or subject matter of related rights have the right to a remuneration for use.

(4) Any remuneration for using any subject matter of protection referred to in this Article acquired in the system of collective management of rights shall belong entirely to the publisher of press publications in which it was published.

### ***Right of a Publisher of Press Publications in Legal Transactions***

#### Article 170

Disposition with the right of a publisher of press publications shall be free.

### ***Duration of Rights***

#### Article 171

(1) The right of a publisher of press publications referred to in Article 165 of this Act shall run for ten years as from the date of the first lawful publication of a press publication, in relation to that press publication.

(2) The right of a publisher of press publications referred to in Article 166 of this Act shall run for two years as from the date of the first lawful publication of a press publication, in relation to that press publication.

*Effective Application of the Copyright Provisions*

Article 172

The provisions referred to in Articles 5, 17 and 25, Article 26 paragraph (3), Articles 33, 34, 36, 41 and 46, Articles from 48 to 54, Articles from 58 to 63, Articles from 65 to 71, Articles from 96 to 114, and Articles 126 and 127 of this Act shall apply accordingly and pursuant to the provisions under this Chapter to the rights of a publisher of press publications as well, unless otherwise provided specifically for him or deriving from the legal nature of the rights of publishers of press publications.

**Chapter 7**

**RIGHTS OF PRODUCERS OF NON-ORIGINAL DATABASES**

*Non-original Database, Producer of a Non-original Database*

Article 173

- (1) A non-original database shall mean a collection of independent copyright works, data or other materials, arranged in a certain systematic or methodical way, the elements of which are individually available by electronic or other means, whereby either the obtaining, verification or presentation of the contents of such database requires a qualitatively and/or quantitatively substantial investment in terms of resources, time and efforts engaged and other investments.
- (2) The protection enjoyed by a non-original database shall not comprise its contents and shall in no way prejudice the copyright and the subject matter of related rights incorporated in such database, nor shall it relate to any other rights or obligations that exist on the data or other material contained in that database.
- (3) The protection of a non-original database shall be independent of its protection by copyright or any other right and shall apply regardless of whether the database is also suitable for copyright protection or any other right.
- (4) The protection of a non-original database shall not prejudice the protection of its content by patent, trademark or industrial design, regulations on cultural heritage protection, restrictive practices and fair trade protection, protection of undisclosed commercially sensitive information, security, confidentiality, data protection and privacy, access to public documents, nor contract law.
- (5) A producer of a non-original database shall be a natural or a legal person, who or which takes the initiative and the qualitatively and/or quantitatively substantial investment into the production of a non-original database.

*Subject Matter of Protection*

Article 174

- (1) A subject matter of protection by the right of a producer of a non-original database, in application of Article 175 of this Act, shall include:
  1. the whole contents of a non-original database;
  2. any qualitatively and/or quantitatively substantial part of the contents of a non-original database;
  3. qualitatively and/or quantitatively insubstantial parts of the contents of a non-original database, when these parts are used by extraction or reuse, repeatedly and systematically, which conflicts with a regular use of the non-original database or

which unreasonably prejudices the legitimate interests of the producer of the non-original database.

(2) The protection provided by this Act for non-original databases shall not relate to computer programs used in the making or for the operation of databases. Such computer programs shall be protected as separate copyright works if they are original intellectual creations of individual character.

### ***Right of Producers of Non-original Databases***

#### Article 175

(1) The producer of a non-original database shall have the following economic rights in relation to the acts of extracting and/or reusing a non-original database:

- the exclusive right of reproduction;
- the exclusive right of distribution, including the rental thereof, except the right to remuneration for public lending;
- the exclusive right of communication to the public in any manner, including an act of making available to the public;
- the exclusive right of adaptation.

(2) The act of extraction shall mean a permanent or temporary transmission of the whole or a substantial part of the contents of a non-original database to another medium by any means or in any form.

(3) The acts of reuse shall mean any form of making the whole or a substantial part of the contents of a non-original database available to the public by distributing copies of the database, by renting, transferring online or other forms of transfer or transmission.

(4) The exhaustion of the right of distribution referred to in Article 34 paragraph (4) of this Act shall relate only to the resale of a non-original database.

(5) A non-original database cannot be the object of public lending.

(6) The right of a producer of a non-original database referred to in this Article shall belong to the producer who is a citizen of a Member State of the European Union or has a habitual residence or registered headquarters, central administration office or the principal place of establishment in a Member State of the European Union. If a producer of a non-original database has only registered headquarters in a Member State of the European Union, his operation must be actually and permanently connected with the economy of a Member State of the European Union.

### ***Rights and Obligations of a Lawful Acquirer***

#### Article 176

(1) A lawful acquirer of a disclosed non-original database may use insubstantial parts of its contents for any purposes. Where the lawful acquirer is authorised to use only a part of the database, this paragraph shall apply only to that part.

(2) A lawful acquirer of a non-original database which is made available to the public may not perform acts which conflict with a normal use of that database, or which unreasonably prejudice the legitimate interests of its producer.

(3) A lawful acquirer of a disclosed non-original database may not cause damage to the authors and holders of related rights in respect of the copyright works and subject matter of related rights contained in that database.

(4) Contract provisions contrary to this Article shall be null and void.

***Right of Producers of Non-original Databases in Legal Transactions***

## Article 177

Disposition with the right of a producer of a non-original database shall be free.

***Duration of Rights***

## Article 178

(1) The right of a producer of a non-original database shall run for 15 years as from the date of the completion of the making of the database. If the non-original database is lawfully disclosed during this period, the right of a producer of a non-original database shall run for 15 years as from the first such lawful disclosure.

(2) Any qualitatively or quantitatively substantial modification of the content of a non-original database, undertaken with substantial new investment shall lead to the resumption of the protection period referred to in paragraph (1) of this Article. Substantial modification of the content of a non-original database shall include also gradual supplementing, deleting and changing the database.

***Effective Application of the Copyright Provisions***

## Article 179

The provisions referred to in Articles 5, 17, 25, Article 26 paragraph (3), Articles 33, 34, 36, 46 and 54, Articles from 58 to 63, Articles from 65 to 71, Articles from 96 to 114, and Articles 126 and 127 of this Act shall apply accordingly and pursuant to the provisions under this Chapter to the rights of a producer of a non-original database as well, unless otherwise provided specifically for him or deriving from the legal nature of the rights of a producer of a non-original database.

**Chapter 8****RIGHTS OF PUBLISHERS IN WRITTEN EDITIONS*****Right of Publishers in the First Edition of Unreleased Free Copyright Works***

## Article 180

(1) A person who for the first time lawfully publishes or communicates to the public a still undisclosed copyright work in which the copyright has expired, shall enjoy the right equal to the economic copyrights under this Act.

(2) The right referred to in paragraph (1) of this Article shall run for 25 years as from the date of the first lawful publication of the work, or its communication to the public, and may be freely disposed with.

**PART FOUR****CONTENT LIMITATIONS ON COPYRIGHT AND RELATED RIGHTS*****Common Provisions***

## Article 181

(1) Disclosed copyright work or subject matter of a related right under this Act may be used without the right holder's authorisation, or without the right holder's authorisation and without payment of remuneration, only in the cases which are expressly stipulated in this Act (hereinafter: content limitations).

(2) The provisions concerning the content limitations referred to in this Chapter of the Act cover only such uses of a copyright work or subject matter of a related right which do not conflict with regular use of the work and do not unreasonably prejudice the legitimate interests of the right holder.

***Temporary Acts of Reproduction***

## Article 182

Temporary acts of reproduction of the copyright work, which are transient or incidental, and constitute an integral and essential part of a technological process, whose sole purpose is to enable a transmission in a network between third parties by an intermediary, or authorised use of the work, and which have no independent economic significance, shall be excluded from the exclusive copyright and related rights of reproduction referred to in Article 33 of this Act.

***Reproduction of a Copyright Work for Private Use  
against Appropriate Remuneration***

## Article 183

(1) A natural person may, without the author's consent, reproduce a copyright work from a legally published source in any medium if he does so for private use, or in the form of photocopying and other personal use if this copy is not intended for or available to the public and has no direct or indirect commercial purpose.

(2) Where a copyright work may be reproduced without the author's consent in accordance with the provisions of paragraph (1) of this Article, authors of the work which, by reason of their nature, may be expected to be reproduced without their permission by recording on sound, image or text or photocopying, for private use, are entitled to an appropriate remuneration from the sale of blank sound, image or text carriers and devices for audio and visual recording and photocopying devices.

(3) In addition to the rights referred to in paragraph (2) of this Article, authors have the right to appropriate remuneration from a natural or legal person who performs photocopying services against payment.

(4) All other duplication techniques are equated with photocopying, and other devices that provide the same effect are equated with audio and visual recording devices.



***Payment of an Appropriate Remuneration for Reproduction for Private Use***

Article 184

- (1) The appropriate remuneration referred to in Article 183, paragraph (2) of this Act shall be paid by manufacturers of blank sound, image or text media, manufacturers of audio and visual recording devices, manufacturers of photocopiers, and jointly with them importers of blank audio, video or text media, audio devices and visual recording, photocopiers, unless they are imports of small quantities intended for private and non-commercial use as part of personal luggage. If the listed devices and items are not manufactured in the Republic of Croatia, the fee shall be paid by the importer.
- (2) The obligation to pay the appropriate remuneration arises upon the first sale in the Republic of Croatia or import into the Republic of Croatia of new blank sound, image or text carriers, new audio and visual recording devices and new photocopying devices.
- (3) The obligation to pay the appropriate remuneration also arises when the devices and carriers referred to in paragraph (1) of this Article are brought into the Republic of Croatia from another Member State of the European Union.
- (4) The obligation to pay the appropriate remuneration does not arise if new blank sound, image or text carriers, new audio and visual recording devices, and new photocopying devices are taken out or exported from the Republic of Croatia.
- (5) The remuneration referred to in Article 183, paragraph (3) of this Act shall be paid according to the data on the number of photocopies made.
- (6) The authors may not waive the right to appropriate remuneration referred to in Article 183, paragraphs (2) and (3) of this Act. The remuneration must be paid collectively.

***Effective Application of Provisions on Reproduction for Private Use to Related Rights***

Article 185

- (1) The provisions of Articles 183 and 184 of this Act shall also apply accordingly to performers, producers of phonograms, audiovisual producers and publishers of press publications.
- (2) Programme signals of broadcasting organisations may be reproduced for private use in accordance with Article 183 paragraph (1) of this Act, without paying an appropriate remuneration referred to in Article 183 paragraph (2) of this Act.
- (3) Regardless of the fact that they do not have the exclusive right of reproduction of their own, publishers of written editions shall have their own right to an appropriate remuneration for reproduction of their editions for private use, with effective application of Articles 183 and 184 of this Act.
- (4) The right to an appropriate remuneration referred to in paragraph (3) of this Article shall run for 50 years as from the date of lawful publication of a work, counting from the 1<sup>st</sup> January of the year following the year of publication. Its disposition shall be free.

***Cases When Reproduction for Private Use Is Not Permitted***

Article 186

It shall not be permitted to reproduce the whole book for private use, unless the copies of such book have been sold out for at least two years, graphic editions of musical works (sheet music), copyright databases, non-original databases, cartographic works, computer programs, nor the building of architectural structures, unless otherwise provided by this Act or a contract.

### *Text and Data Mining for Scientific Research*

#### Article 187

- (1) It is permitted, without the right holder's authorisation and without payment of remuneration, to reproduce copyright works, including copyright databases and subject matter of related rights, including the extraction of a part and the reuse of all or a substantial part of the content of a non-original database, when performed by scientific organisations and cultural heritage institutions for the purpose of text and data mining for the needs of scientific research, in copyright works and subject matter of related rights to which they have lawful access.
- (2) Scientific organisation is a university, including its libraries, a scientific institute or office, entities of the university, a hospital conducting research work or any other entity with the main goal to conduct scientific research or to perform educational activities that include the implementation of scientific research on a non-profit basis as well or the reinvestment of the entire profit into scientific research or in accordance with the mission of public interest recognised by the Republic of Croatia (for example, by public financing or a special law or public contracts), namely in the way that access to the results obtained by such scientific research cannot be granted on a privileged basis to an entrepreneur who exerts a decisive influence on such organisation.
- (3) A cultural heritage institution is a publicly available library or museum, archive or film or audiovisual heritage institution. This includes national libraries and national archives, as well as archives and publicly available libraries of educational institutions, scientific organizations and public broadcasting organisations.
- (4) Text and data mining implies any automated analytical technique aiming at text and data analysis in digital form to generate data, which includes patterns, trends and correlations.
- (5) Lawful access implies access to the contents protected by copyright or related rights based on, *inter alia*, contracting relationship between a right holder and scientific organisations and cultural heritage institutions, which can be a subscription relationship, a relationship based on an open access policy or other legitimate means of gaining access to the contents protected by copyright or related rights. All persons covered by subscriptions and use agreements shall be considered to have legal access due to their connection with scientific organizations and cultural heritage institutions.
- (6) Scientific organisations and cultural heritage institutions shall store the results of reproduction and extraction made in accordance with paragraph (1) of this Article with an appropriate level of security and may keep them for the purposes of scientific research, including the verification of the results of scientific research.
- (7) Right holders may apply measures to ensure the security and integrity of networks and databases on or in which works and subject matter of related rights are located, such as IP address verification measures or user authentication procedures. These measures shall be proportionate to the risks involved and shall not go beyond what is necessary to achieve the objective of ensuring the security and integrity of the system and shall not prejudice the effectiveness of the application of the limitations referred to in paragraph (1) of this Article.
- (8) Right holders, scientific organisations and cultural heritage institutions shall cooperate in order to agree upon the best practices related to the application of obligations referred to in paragraph (6) and the measures referred to in paragraph (7) of this Article.
- (9) Contract provisions contrary to this Article shall be null and void.

### ***Text and Data Mining for Other Purposes***

#### Article 188

- (1) It shall be permitted, without the right holder's authorisation and without payment of remuneration, for the purpose of text and data mining as referred to in Article 187 paragraph (4) of this Act, to reproduce copyright works, including reproduction of copyright databases and computer programs as well as computer programs processed within the meaning of Article 15 paragraph (1) of this Act, and the subject matter of related rights, as well as the extraction of a part of the contents and the reuse of all or a substantial part of the contents of a non-original database.
- (2) The results of reproduction and extraction referred to in paragraph (1) of this Article may be kept only for the period necessary to achieve the purpose of text and data mining.
- (3) The limitation referred to in paragraph (1) of this Article shall relate to copyright works and subject matter of related rights that can be lawfully accessed and provided that their right holders have not explicitly in an appropriate manner reserved the right of their use.
- (4) Appropriate manners of reserving the right may be: machine-readable method that includes metadata, general terms and conditions relating to the website and the service, contracting provisions or unilateral statements by right holders.
- (5) In the case of copyright works and subject matter of related rights made available to the public online, the only appropriate means of reserving the right is machine-readable method that includes metadata and general terms and conditions relating to the website and the service.

### ***Free Use of Orphan Works***

#### Article 189

- (1) Institutions of cultural heritage referred to in Article 187 paragraph (3) of this Act, educational establishments and public broadcasting organisations may reproduce, without the right holder's authorisation and without payment of remuneration, orphan works which are contained in their collections within the meaning of Article 191 paragraph (2) of this Act, for the purposes of digitisation, making them available to the public, indexing, cataloguing, preservation or restoration and may make them available to the public. The mentioned institutions may perform the acts of reproduction and making available to the public only in order to achieve aims related to their public-interest missions, in particular the preservation of, the restoration of and the provision of cultural and educational access to, orphan works contained in their collections.
- (2) The institutions, establishments and organisations referred to in paragraph (1) of this Article may generate revenues, for the exclusive purpose of covering their costs of digitising orphan works and making them available to the public. This shall not affect their freedom of contract in the pursuit of their public-interest missions, particularly in respect of public-private partnership agreements.
- (3) In any use of an orphan work, the institutions, establishments and organisations referred to in paragraph (1) of this Article shall indicate in the usual manner the identified author and co-authors of such works, respectively.
- (4) An author or a co-author that puts an end to the orphan work status in accordance with Article 25 paragraph (7) of this Act shall have a right to a fair compensation for the use so far that has been made of his work as an orphan work. The fair compensation shall be paid by the institution, establishment or organisation referred to in paragraph (1) of this Article that used the work.

(5) The amount of the fair compensation referred to in paragraph (4) of this Article shall be determined according to the category of orphan works, taking into account, among other things, the aims of the Republic of Croatia in the field of cultural promotion, the non-commercial nature of the use made by the institution, establishment or organisation referred to in paragraph (1) of this Article in order to achieve aims related to their public-interest missions, such as promoting learning and disseminating culture, as well as possible harm incurred to authors. The fair compensation shall be paid retroactively, for not more than three years, counting from the day of putting an end to the orphan work status.

(6) A request for the payment of a fair compensation may be filed by the author or the respective collective management organisation. A request for the payment of a fair compensation shall be subject to the statute of limitations within a period of one year, counting from the day of putting an end to the orphan work status.

(7) The provisions of this Article shall apply accordingly to the related rights under this Act.

(8) The provisions of this Article shall not affect the obligations and rights acquired by other legal provisions concerning other intellectual property rights, conditional access, access to broadcasting services, the protection of cultural heritage, deposit requirements, the protection of fair trading, the protection of undisclosed commercially sensitive information, security, confidentiality, data protection and privacy, access to public documents, the law of contract, and rules on the freedom of the press and freedom of expression in the media.

### ***Ephemeral Recordings***

#### Article 190

(1) A broadcasting organisation, which has the authorisation to broadcast a copyright musical work with or without works or an artistic musical performance, may record it, without the right holder's authorisation and without payment of remuneration, on audio, video or text fixation mediums, by means of its own facilities and for the needs of its own broadcasting (ephemeral recordings).

(2) Broadcasting organisation is obliged to destroy its ephemeral recordings referred to in paragraph (1) of this Article, at the latest 30 days after such broadcast, or deposit them in its own or public official archive, where such recordings have particular documentary value.

(3) Ephemeral recordings that are deposited in accordance with paragraph (2) of this Article may be broadcast, retransmitted, transmitted by direct injection, made available to the public, be contained in an ancillary online service, and they may be made available to the public in accordance with Article 50 of this Act with the authorisation of the right holder and upon payment of remuneration. This right shall be exercised in the system of collective management of rights only.

### ***Preservation of Cultural Heritage***

#### Article 191

(1) Cultural heritage institutions referred to in Article 187 paragraph (3) of this Act, shall be allowed without the right holder's authorisation and without payment of remuneration, to make copies of copyright works and subject matter of related rights that are permanently in their collections, in any format or medium, for purposes of preservation of such works and to the extent necessary for such preservation.

(2) Copyright works and subject matter of related rights shall be considered to be a part of the collections of cultural heritage institutions in the cases where the copies of these works and subject matter of related rights are owned by a cultural heritage institution or it keeps

them permanently on the basis of a contract on use, deposit or permanent lending or similar contracting relationship.

(3) Contract provisions contrary to this Article shall be null and void.

### *Use of Out-of-Commerce Works and Other Subject Matter*

#### Article 192

(1) It shall be permitted for cultural heritage institutions referred to in Article 187 paragraph (3) of this Act, on non-commercial websites, without the right holder's authorisation and without payment of remuneration, to reproduce and communicate to the public, including an act of making available to the public, out-of-commerce copyright works and subject matter of related rights, which make a permanent part of their collections within the meaning of Article 191 paragraph (2) of this Act, for non-commercial purposes, provided that when using them they indicate names of the author or other right holder who can be identified, unless proven impossible.

(2) The provision referred to in paragraph (1) of this Article shall not apply in relation to the sets of out-of-commerce works or subject matter of related rights if it arises on the basis of reasonable effort made as referred to in Article 17 paragraphs (1) to (3) of this Act that there exists evidence on these sets containing mainly:

- works or subject matter of related rights, exclusive of audiovisual works, published for the first time or, if not published, then broadcast for the first time in a third country;
- audiovisual works whose producers have a place of establishment or a habitual residence in a third country; or
- works or subject matter of related rights of third country citizens where, upon reasonable effort made, a Member State of the European Union or a third country could not have been identified in accordance with subparagraphs 1 and 2 of this paragraph.

(3) It shall be accepted that uses with application of limitations referred to in paragraph (1) of this Article take place only in the territory of the Republic of Croatia if a cultural heritage institution has a place of establishment in the Republic of Croatia.

(4) The provisions referred to in paragraphs (1) and (2) of this Article shall apply only to those types of copyright works and subject matter of related rights for which there is no collective management organisation existing in the Republic of Croatia.

(5) The data on the works and subject matter of related rights used on the basis of this Article shall be delivered by cultural heritage institutions in accordance with Article 17 paragraph (5) of this Act.

### *Limitations of the Right of Reproduction for the Benefit of Individual Institutions*

#### Article 193

Research organisations referred to in Article 187 paragraph (2) of this Act, cultural heritage institutions referred to in Article 187 paragraph (3) of this Act, educational institutions, preschool educational institutions and social and charitable institutions may reproduce, without the right holder's authorisation and without payment of remuneration, a copyright work or a subject matter of related rights under this Act, to any media whatsoever for their special needs in compliance with their public purpose, such as the purposes of preservation and safeguarding, technical restoration and reparation of the materials, management of a collection within the meaning of Article 191 paragraph (2) of this Act and

other personal needs, if not acquiring thereby any direct or indirect economic or commercial benefit.

***Limitation for the Benefit of Persons with Disabilities***

Article 194

The use of copyright works and the subject matter of related rights for the benefit of persons with disabilities shall be permitted, without the right holder's authorisation and without payment of remuneration, where the work is used in a manner directly related to the disability of such people and where such use is of a non-commercial nature, to the extent required by the specific disability.

***Limitation for the Benefit of Persons Who Are Blind, Visually Impaired  
or Otherwise Print-Disabled***

Article 195

(1) It shall be permitted, without the right holder's authorisation and without payment of remuneration, to reproduce, distribute, communicate to the public in any manner, and to adapt copyright works, including computer programs and copyright databases, and subject matter of related rights, including non-original databases, legally published or otherwise legally disclosed to the public in the form of books, periodicals, newspapers, magazines or other types of recordings, notations, including sheet music, and illustrations associated with them, in any media, including in sound form, such as sound books, and in digital form, for any act necessary for:

- a beneficiary person, or a person acting on their behalf, to make an available format copy of such copyright work or other subject matter of related rights to which the beneficiary person has lawful access for the exclusive use of the beneficiary person; and
- an authorised entity to make an available format copy of such copyright work or other subject matter of related rights to which it has lawful access, or to communicate, make available to the public, distribute or lend an available format copy to a beneficiary person or another authorised entity on a non-profit basis for the purpose of exclusive use by a beneficiary person.

(2) Beneficiary person means, for the needs of this Article and Article 196 of this Act, regardless of any other disabilities, a person who:

- is blind,
- has a visual impairment which cannot be improved so as to give the person visual function substantially equivalent to that of a person who has no such impairment, and who is, as a result, unable to read printed works to substantially the same degree as a person without such an impairment;
- has a perceptual or reading disability and is, as a result, unable to read printed works to substantially the same degree as a person without such disability; or
- is otherwise unable, due to a physical disability or movement disorders, to hold or manipulate a book or to focus or move their eyes to the extent that would be normally acceptable for reading.

(3) Available format copy means a copy of a copyright work or subject matter of related rights referred to in paragraph (1) of this Article, made in a format that gives a beneficiary person referred to in paragraph (2) of this Article access to the work or subject matter of related rights, including allowing such person to have access as feasibly and comfortably as a

person without any of the impairments, disorders or disabilities referred to in paragraph (2) of this Article (hereinafter: available format copy).

(4) Each available format copy of the copyright work or subject matter of related rights shall be made so that it respects the integrity of the original, with due consideration given to the changes required to make a copy in the available format.

(5) Authorised entity means any entity that provides education, instructional training, adaptive reading or information access to beneficiary persons on a non-profit basis, which also includes a public institution or non-profit organisation that provides the same services to beneficiary persons as one of its primary activities, institutional obligations or as part of its public-interest missions, in compliance with special provisions, (hereinafter: authorised entity).

(6) The exception provided for in this Article cannot be excluded or overridden by contract.

***Limitation for the Benefit of Persons Who Are Blind, Visually Impaired  
or Otherwise Print-Disabled in the Internal Market***

Article 196

(1) An authorised entity established in the Republic of Croatia may use the limitation of copyright and related rights as referred to in Article 195 of this Act for a beneficiary person or another authorised entity from any Member State of the European Union.

(2) A beneficiary person or an authorised entity from the Republic of Croatia may obtain or may have access to an available format copy of a copyright or subject matter of related rights from an authorised entity from any Member State of the European Union.

(3) An authorised entity shall establish and follow its own practice to ensure that it:

- distributes, communicates and makes available to the public available format copies of copyrights and subject matter of related rights only to beneficiary persons or other authorised entities;
- takes appropriate steps to discourage the unauthorised reproduction, distribution, communication to the public or making available to the public of available format copies;
- demonstrates due care in, and maintains records of, its handling of copyright works and subject matter of related rights and of available format copies thereof;
- publishes and updates on its website, if appropriate, or through other online or offline channels, information on how it complies with the obligations laid down in this paragraph.

(4) The practices referred to in paragraph (3) of this Article shall be established and followed by an authorised entity in full respect of the rules applicable to the collecting and processing of personal data of beneficiary persons.

(5) An authorised entity shall provide the following information in an appropriate way, to beneficiary persons, other authorised entities and holders of copyright and related rights whose works or subject matter of related rights it uses in accordance with the content limitation referred to in Article 195 of this Act:

- the list of copyright works or subject matter of related rights for which it has available format copies and the available formats; and
- the names and contact details of the authorised entities with which it has engaged in the exchange of available format copies pursuant to paragraph (1) of this Article.

(6) The State Intellectual Property Office of the Republic of Croatia (hereinafter: the Office) shall invite authorised entities from the Republic of Croatia to communicate to it, on a voluntary basis, their updated names and contact details, in order to provide the information to

the European Commission to make such information available to the public online on a central information access point.

(7) The Office shall provide the European Commission with the information on the improvement of availability of other kinds of copyright works and subject matter protected by related rights for beneficiary persons who are blind, visually impaired or otherwise print-disabled and of works and other subject matter of protection for persons with other disabilities and other relevant information necessary for the European Commission to prepare the report on exceptions of copyright and related rights in favour of the persons with disabilities.

### ***Collections Intended for Teaching and Scientific Research***

#### Article 197

(1) It shall be permitted, without the right holder's authorisation, to reproduce on paper or any similar medium and distribute particular portions of lawfully disclosed copyright works, or integral short copyright works from the domain of science, literature and music, as well as disclosed individual copyright works of visual arts, architecture, applied arts and industrial design, photographic or cartographic works, and presentations of scientific or technical nature, of individual segments of lawfully disclosed artistic performances, phonograms or videograms or integral short artistic performances, phonograms or videograms, in the form of a collection which contains contributions of several authors and other right holders, and which is, by its contents and systematisation exclusively intended for teaching or scientific research, as long as the source is indicated, unless the author or another right holder expressly prohibits it. Reproduction and distribution of particular parts of copyright works and artistic performances shall not be considered as infringement referred to in Articles 29, 30, 132 and 133 of this Act, unless the disclosure of particular part would jeopardise the honour or reputation of the author or the performer.

(2) The collection referred to in paragraph (1) of this Article may be, without the right holder's authorisation and without payment of remuneration, communicated to the public, including made available to the public, for its digital use in teaching, provided that such use takes place within responsibility of an educational establishment, on its premises or in another facilities or via safe electronic environment that can be accessed by pupils only, or students and teaching staff of that educational establishment.

(3) The authors and other right holders of the works, performances, phonograms and videograms included in the collection referred to in paragraph (1) of this Article, shall be entitled to an equitable remuneration for the reproduction and distribution of their copyright works, performance, phonograms and videograms. This remuneration shall be exercised collectively only.

### ***Use of the Works for Teaching***

#### Article 198

(1) It shall be permitted, without the right holder's authorisation and without payment of remuneration, to publicly perform copyright works and subject matter of related rights or to publicly present them at stage in the form of direct teaching or at school events, to the extent justified by the educational purpose thereof to be achieved by such use, if a copyright work or subject matter of related rights is not used for commercial benefit, the organisers or third persons, if the performers receive no payment (remuneration) for the performance of copyright works and if the tickets are free of charge.

(2) It shall be permitted, without the right holder's authorisation and without payment of remuneration, to use copyright works and subject matter of related rights, for giving examples



in teaching or in scientific research, which is justified by non-commercial purpose to be achieved, provided that the source and name of the author or another right holder is indicated, unless proven impossible.

(3) Giving examples in teaching comprises the use of copyright works and subject matter of related rights, as a rule, in portions or segments, in order to support, enrich or supplement teaching and teaching activities within and outside of premises of educational establishments.

(4) Non-commercial purpose shall imply non-commercial purpose of an individual teaching activity, provided that the organisational structure and financial means of an educational establishment are not decisive in determining if an individual teaching activity is of non-commercial nature.

(5) The limitation referred to in this Article shall also apply accordingly to activities of lifelong education conducted by state institutions, public establishments and other entities authorised to undertake such activities.

### ***Use of the Works in Digital and Cross-Border Teaching Activities***

#### Article 199

(1) It shall be permitted, without the right holder's authorisation and without payment of remuneration, to reproduce and communicate to the public, including an act of making available to the public, copyright works and subject matter of related rights for their digital use in order to give examples in teaching, pursuant to Article 198 paragraph (3) of this Act, to the extent as justified by non-commercial purpose referred to in Article 198 paragraph (4) of this Act and provided that such use takes place within responsibility of an educational establishment, on its premises or in other facilities or via safe electronic environment that can be accessed by pupils only, or students and teaching staff of that educational establishment, provided that the source and name of the author or another right holder is indicated, unless proven impossible.

(2) The content limitation referred to in paragraph (1) of this Article shall relate, *inter alia*, to digital and online teaching, remote teaching and cross-border teaching and to all levels of education.

(3) The use of the content limitation referred to in Article 198 paragraph (2) and paragraph (1) of this Article shall not replace purchase of material intended for education markets.

(4) The uses referred to in paragraph (1) of this Article shall be considered to take place only in the Member State where an educational establishment has a place of establishment.

(5) Contract provisions contrary to this Article shall be null and void.

(6) The limitation referred to in this Article shall also apply accordingly to activities of lifelong education conducted by state institutions, public establishments and other entities authorised to undertake such activities.

### ***Use of the Works for Judicial, Administrative or Other Official Proceedings***

#### Article 200

It shall be permitted, without the right holder's authorisation and without payment of remuneration, to reproduce copyright works and subject matter of related rights for the use in judicial, administrative, arbitration and other official proceedings, as well as to communicate to the public copyright works and subject matter of related rights, which are made for the purpose of official proceedings.

### *Use of the Works for the Purpose of Informing the Public*

#### Article 201

(1) It shall be permitted, without the right holder's authorisation and without payment of remuneration, to the extent necessary to inform the public on current events, by press, radio, television or other means, to reproduce, distribute and communicate to the public, including to make available to the public:

- copyright works and subject matter of related rights that appear as an integral part of a current event reported to the public, provided that they are used to the extent appropriate to the purpose and manner of reporting on the current event;
- newspapers' articles and photographs, radio and television reports and other audiovisual recordings published on current political, economic or religious topics, which are released through other media of public communication, provided that the rights for such use are not expressly reserved with regard to this content limitation, and that the copyright work or subject matter of related rights is used to the extent justified by the purpose and manner of reporting;
- public political, religious or other speeches made at state or local governmental bodies, religious institutions or at state or religious ceremonies, as well as excerpts from public lectures.

(2) In all the cases referred to in paragraph (1) of this Article, the source and authorship of the work shall be indicated, if possible considering the manner of use.

### *Quotation, Criticism and Review*

#### Article 202

It shall be permitted, without the right holder's authorisation and without payment of remuneration, to make literal quotations of excerpts from a copyright work or subject matter of related rights, which has already been lawfully made available to the public for purposes of scientific research, teaching, criticism, polemics, revision, review and the like, to the extent justified by the purpose to be achieved and in accordance with fair practice, provided that the source and the name of the author are indicated, if possible considering the manner of use.

### *Accompanying and Incidental Use*

#### Article 203

It shall be permitted, without the right holder's authorisation and without payment of remuneration, to communicate to the public copyright works and subject matter of related rights when being in accompanying and incidental use as irrelevant works or subject matter of related rights beside the actual subject matter of reproduction, distribution or communication to the public.

### *Reproduction of Copyright Works Permanently Located in Public Places*

#### Article 204

(1) It shall be permitted, without the right holder's authorisation and without payment of remuneration, to reproduce, except in a three-dimensional form, the copyright works, which are permanently located on streets, squares, parks or other places available to the public, and to distribute and communicate to the public such reproductions.

(2) The limitation referred to in paragraph (1) of this Article shall apply only in respect of the outer appearance of an architectural structure.

### ***Posters and Catalogues***

#### Article 205

(1) Organisers of public exhibitions or auctions shall be permitted, without the right holder's authorisation and without payment of remuneration, for the purpose of promoting such events and to the extent necessary for such purpose, to reproduce on posters and in catalogues for such exhibitions or auctions, and to distribute by means of such posters and catalogues the works of visual arts, architecture, applied art, industrial designs and photographic works, which are displayed at a public exhibition or auction or are intended for such display.

(2) In the catalogues referred to in paragraph (1) of this Article, the source and authorship of the work shall be indicated.

### ***Parodies and Caricatures***

#### Article 206

It shall be permitted, without the right holder's authorisation and without payment of remuneration, to transform the copyright work into a parody, caricature or pastiche, to the extent necessary for the purpose thereof (humour, critique of the work that is subject matter of parody, caricature or pastiche, critique of social events and phenomena and the like), in accordance with good customs.

### ***Use of Copyright Works for the Purpose of Presentation or Testing of Equipment***

#### Article 207

Shops which sell phonograms or videograms, or equipment for audio and video reproduction or reception, shall be permitted, without the right holder's authorisation and without payment of remuneration, to record the copyright works and subject matter of related rights on audio, video or text fixation mediums, to communicate them from such mediums, as well as to communicate the broadcast copyright works or subject matter of related rights, to the extent necessary for presenting to direct buyers or for testing the functioning of such phonograms or videograms or equipment or for the repair thereof.

### ***Special Limitations on the Actions of the Lawful Acquirer of a Computer Program***

#### Article 208

(1) The lawful acquirer of a computer programme shall be permitted, without the right holder's authorisation and without payment of remuneration:

- to reproduce and alter a computer programme if necessary for the computer programme to be used in accordance with its intended purpose, including to correct errors;
- to make a back-up copy of a computer program, if necessary for its use;
- to observe, study or test the operation of a computer programme in order to identify ideas and principles which any element of the programme is based on, if he does so when performing any of the actions of uploading, displaying, performing, transmitting or storing a computer program, which he is authorised to undertake.

(2) Contract provisions contrary to this Article shall be null and void.

***Decompilation of a Computer Program***

Article 209

(1) The lawful acquirer of a computer programme to whom data to achieve interoperability of a computer programme were not previously available shall be permitted, without the right holder's authorisation and without payment of remuneration, to reproduce the code of a computer programme and to translate its form indispensable to obtain the information necessary to achieve interoperability of an independently created computer programme with other programs, if such actions are limited only to those parts of an original programme necessary to achieve interoperability.

(2) The information obtained in the manner as described in paragraph (1) of this Article shall not be:

- used for goals other than to achieve interoperability of an independently created computer program;
- transferred to other persons, except when necessary for achieving interoperability of an independently created program;
- used for the development, production or marketing of another programme substantially similar in its expression, or for any other action that infringes copyright.

(3) Contract provisions contrary to this Article shall be null and void.

***Special Limitations on the Actions of the Lawful User of a Copyright Database***

Article 210

(1) The lawful user of a copyright database or its copy shall be permitted, without the right holder's authorisation and without payment of remuneration, to perform any action of using, if this is necessary for the access to the content of a database and its normal use.

(2) If a user is authorised only in respect of a part of the database, paragraph (1) of this Article shall refer only to that part of a database.

(3) Contract provisions contrary to this Article shall be null and void.

***Special Limitations on the Actions of the Lawful User of a Non-Electronic Non-Original Database***

Article 211

The lawful user of a disclosed non-electronic non-original database shall be permitted, without the right holder's authorisation and without payment of remuneration, to extract the content and reuse a database for private purposes.

***Free Use for Public Safety***

Article 212

It shall be permitted, without the right holder's authorisation and without payment of remuneration, to use a copyright work, including a copyright database, as well as the subject matter of related rights, including a non-original database, to the extent and in the manner to achieve the needs of public safety.

### *Obligations of a Right Holder*

#### Article 213

- (1) Where the use of a copyright work or subject matter of related rights is permitted under the provisions of this part of this Act without the right holder's authorisation or without the right holder's authorisation and without payment of remuneration, and where the use of the work or the access to it are prevented by the application of technical measures referred to in Article 276 of this Act, the right holders or other persons who applied such measures or who are authorised or have the possibility to remove them, shall be obliged, by providing special measures or concluding contracts, to enable the users or their associations access to such copyright works or subject matter of related rights and the use thereof in accordance with the limitations referred to in this part of this Act.
- (2) The provision referred to in paragraph (1) of this Article shall not apply to computer programs.
- (3) If the persons who applied technical measures referred to in paragraph (1) of this Article or who are authorised and have the possibility to remove them, fail to comply with the provisions of paragraph (1) of this Article, the person who claims to be authorised pursuant to any of the provisions of this part of this Act to use a copyright work or subject matter of related rights without the right holder's authorisation or without the right holder's authorisation and without payment of remuneration, may institute a legal action against the right holder or other person, respectively, who has applied technical measures or who is authorised and has the possibility to remove them, demanding provision of access to the copyright work or subject matter of related rights and their use in compliance with the limitation referred to in this part of this Act. The plaintiff shall prove in the legal action that the conditions laid down in Article 181 of this Act have been fulfilled.
- (4) The person who claims to be authorised pursuant to any of the provisions of this part of this Act to use a copyright work or subject matter of related rights without the authorisation or without the authorisation and without payment of remuneration, or the right holder or other person, respectively, who has applied technical protection measures to prevent access to or use of copyright works or subject matter of related rights, or who is authorised or has the possibility to remove them, may call upon the mediation of the Council of Experts in respect of access and use thereof in accordance with any limitation referred to in this part of this Act. The Council of Experts shall carry out the mediation in accordance with the provisions referred to in Article 239 of this Act.
- (5) The technical measures referred to in this Article shall be protected in accordance with Article 276 of this Act.
- (6) The provisions referred to in this Article shall not apply to copyright works and subject matter of related rights made available to the public on agreed contractual terms in such a way that members of the public may access them from a place and at a time individually chosen by them.
- (7) The right holder or other person, respectively, who applied the technical measures or who is authorised and has the possibility to remove them, must, for the purpose of ensuring effective application of this Article, indicate clearly and distinctly the application of technical measures on every copy of the copyright work or subject matter of related rights produced or imported for commercial purposes, including information on the technical measure and its effects, as well as his name and address for contact.

**PART FIVE****MANAGEMENT OF COPYRIGHT AND RELATED RIGHTS****Chapter 1****GENERAL PROVISIONS***Management of Rights*

## Article 214

- (1) The management of copyright or related rights shall include the following:
- giving authorisations for the use of copyrights and subject matter of related rights (hereinafter: subject matter of protection), except in cases where the authorisation is not required by the provisions of this Act;
  - charging the price for the use of the subject matter of protection, where it is used subject to payment of remuneration expressed as the price of usage;
  - distributing of collected income from the rights to the right holders;
  - supervising the use of the subject matter of protection;
  - initiating and carrying out protection proceedings in the case of infringement of the rights having been managed; and
  - other actions of the management of copyright and related rights.
- (2) The rights can be managed individually and collectively.
- (3) Rights revenue is income collected on behalf of a right holder from using the subject matter of protection by the right holder himself or a person authorised by him for the management of rights, including a collective management organisation referred to in Article 216 paragraph (2) of this Act, regardless of whether such income derives from an exclusive right or from using subject matter of protection without authorisation of a right holder but with payment of remuneration under this Act.
- (4) User is any person or entity that is carrying out actions of using subject matter of protection subject to the authorisation of right holders or payment of remuneration expressed as a price of use, and is not acting in the capacity of a consumer, (hereinafter: the user).

*Individual Management of Rights*

## Article 215

- (1) Individual management of rights is the management of rights that relates to an individual use of a particular subject matter of protection in accordance with the relevant contract between the right holder and the user of the subject matter of protection, carried out by the right holder himself or through a representative.
- (2) The tasks of an authorised representative may be carried out by an attorney at law, a specialised legal person for the management of copyright and related rights, and a collective management organisation.
- (3) Specialised legal entity for the management of copyright and related rights is a company or another legal person having individual management of copyright and related rights as its main activity and employing minimum one person with an undergraduate or graduate university degree in law.

### *Collective Management of Rights*

#### Article 216

- (1) Collective management of rights shall be carried out, as a rule, by a collective management organisation, under the assumptions and in the manner regulated in this part of this Act.
- (2) Collective management organisation is an organisation which is authorised by this Act, power of attorney or by a contract to manage copyright and related rights on behalf of two or more right holders, regardless of whether it acts on its own behalf or on behalf of right holders, for the collective benefit, as its sole or main purpose, and which is:
- owned or controlled by its members; and
  - organised on a not-for-profit basis.
- (3) The collective management organisation shall act in the best interests of the right holders whose rights it represents. The collective management organisation cannot impose any obligations on them which are not objectively necessary for the protection of their rights and interests and for the effective management of their rights.
- (4) Collective management of rights can be also carried out by an independent management entity, under the assumptions and in the manner regulated in this part of this Act.
- (5) An independent management entity is any organisation which is authorised by a contract to manage copyright or related rights on behalf of two or more right holders, regardless of whether it acts on its own behalf or on behalf of right holders, for their collective benefit, as its sole or main purpose, and which is:
- neither owned nor controlled, directly or indirectly, wholly or in part, by its members; and
  - organised on a for-profit basis.
- (6) Producers, broadcasting organisations and publishers who manage their own rights and other holders' rights transferred to them on the basis of individually negotiated contracts or other agreements and who act in their own interest, or right holders' managers and agents acting as intermediaries and representing right holders in their relations with collective management organisations, shall not be regarded as independent management entities referred to in paragraph (5) of this Article.
- (7) Repertoire is a set of copyright works or subject matter of related rights in respect of which a collective management organisation or an independent management entity manages rights.

### *Collective Management of Copyright*

#### Article 217

- (1) Collective management of rights shall include the following economic copyrights:
1. for non-stage musical works with or without words and literary works:
    - a) the right of public performance;
    - b) the right of public transmission;
    - c) the right of public communication of a fixed work;
    - d) the right of public presentation;
    - e) the right of making available to the public;
    - f) the right of public communication of a broadcasting, retransmission, direct injection and making available to the public;
    - g) the right of communication to the public, including an act of making available to the public, when providing the public with access to the works uploaded by users on platforms for online content-sharing;

- h) the right of reproduction by audio recording to phonograms and of distribution of such audio recordings;
- 2. for journalistic works, included in press publications:
  - a) the right of making available to the public and right of reproduction for making available to the public;
  - b) the right of reproduction, distribution and communication to the public of journalistic copyrights extracted from written, electronic and other media and publications by grouping according to topics, when done by a person other than media publishers;
- 3. for works of visual art:
  - a) the right of resale.

(2) In addition to the rights referred to in paragraph (1) of this Article, other copyrights may also be managed collectively, unless stipulated in paragraph (3) of this Article that they must be managed only through a collective management organisation.

(3) The following economic copyrights may be managed only through a collective management organisation:

- 1. for non-stage musical works with or without words and literary works:
  - a) the right of broadcasting, including broadcasting via satellite;
  - b) the right of retransmission, including cable retransmission;
  - c) the right of direct injection;
  - d) the right of reproduction and communication to the public, including an act of making available to the public, within an ancillary online service;
  - e) right of remake that relates to:
    - incorporating musical works with or without words into audiovisual works such as music, entertainment, mosaic and similar shows, including adaptation and music rework for that purpose;
    - using musical works with or without words in the ways for which it is intended, such as a concert or studio performance or a performance of dance music, including adaptation and music rework for that purpose; and
    - incorporating musical works with or without words as background music with speech or actions that are by themselves not performed according to a pre-written detailed scenario, including adaptation and music rework for that purpose;

provided that a user has authorisation for broadcasting, retransmission, direct injection or communication to the public, including an act of making available to the public, within an ancillary online service;

- f) the right of remake that relates to:
  - adaptation;
  - musical rework; and
  - incorporating musical works with or without words into other types of copyright works, such as audiovisual works, subject matter of related rights and into other kinds of contents uploaded by users of services for online content-sharing;

provided that an online content-sharing service provider has authorisation for reproduction and communication to the public, including an act of making available to the public, when providing the public with access to the works uploaded by users on platforms for online content-sharing;

- g) the right of reproduction that implies audio recording, including creating of phonograms, as well as incorporating non-stage musical part with or without



- words into an audiovisual work in accordance with item 1. subitems e) and f) of this paragraph, including creating of videograms;
- h) earning a rental remuneration referred to in Article 34 paragraphs (2) and (6) of this Act;
  - i) earning a public lending remuneration referred to in Article 34 paragraphs (3) and (7) of this Act;
  - j) earning a remuneration for communication to the public of literary and artistic creations referred to in Article 18 paragraph (7) of this Act;
  - k) exercising the right to the further use of ephemeral recordings referred to in Article 190 paragraph (3) of this Act;
2. for journalistic works, such as articles, photos and audiovisual contributions, incorporated into press publications:
- a) the rental right referred to in Article 34 paragraph (2) of this Act when journalistic works incorporated into printed press publications are given to members of the public for use for a limited period, in places available to the public, such as catering facilities, with earning a direct or indirect economic or commercial benefit;
  - b) earning a remuneration for public lending referred to in Article 34 paragraph (3) of this Act;
  - c) the right to a share in the remuneration of publishers of press publications referred to in Article 167 paragraph (1) of this Act;
3. for audiovisual works:
- a) the right of retransmission, including cable retransmission;
  - b) the right of programme transmission by direct injection;
  - c) earning a remuneration for rental referred to in Article 92 paragraph (2) of this Act;
  - d) earning a remuneration for public lending referred to in Article 34 paragraph (3) of this Act;
4. for all copyright works, except for computer programs and copyright databases:
- a) the right of reproduction, distribution and communication to the public, including an act of making available to the public, on behalf of cultural heritage institutions, for non-commercial purposes, of out-of-commerce works within the meaning of Article 17 of this Act, and which make a permanent part of the collection of a cultural heritage institution;
  - b) earning a remuneration for reproduction of a copyright work for private use referred to in Article 183 paragraphs (2) and (3) of this Act;
  - c) earning a remuneration for reproduction and distribution of a copyright work by exercising copyright limitation by including it into collections, referred to in Article 197 paragraph (3) of this Act.

### *Collective Management of Related Rights*

#### Article 218

- (1) Collective management of rights shall include the following related rights under this Act:
- 1. the rights of performers, in relation to the performances fixed on phonograms, including those incorporated in an audiovisual work with the rights retained in accordance with Article 136 paragraph (3) of this Act:
    - a) the right of public communication of a fixed work;

- b) the right of public communication of broadcasting, retransmission, direct injection and making available to the public;
  - c) the right of making available to the public;
  - d) the right of communication to the public, including an act of making available to the public, when providing the public with access to performances uploaded by users on platforms for online content-sharing;
  - e) the right of reproduction, in relation to the right of making available to the public, referred to in Article 149 paragraph (4) of this Act;
2. the rights of phonogram producers, for phonograms:
- a) the right of making available to the public;
  - b) the right of communication to the public, including an act of making available to the public, when providing the public with access to phonograms uploaded by users on platforms for online content-sharing;
3. the rights of publishers of press publications, for press publications:
- a) the right of reproduction, distribution and communication to the public referred to in Article 165 paragraph (1) subparagraphs from 1 to 3 of this Act, of parts of press publications, extracted from written, electronic and other media and publications by grouping according to topics, when done by a person other than media publishers.
- (2) In addition to the rights referred to in paragraph (1) of this Article, other related rights may also be managed collectively, unless stipulated in paragraph (3) of this Article that they must be managed only through a collective management organisation.
- (3) The following related rights may be managed only through a collective management organisation:
1. the rights of performers, for the performances fixed on phonograms, including those incorporated in an audiovisual work with the rights retained in accordance with Article 136 paragraph (3) of this Act:
- a) the right of broadcasting, including broadcasting via satellite;
  - b) the right of retransmission, including cable retransmission;
  - c) the right of direct injection;
  - d) the right of reproduction and communication to the public, including an act of making available to the public, within an ancillary online service;
  - e) earning a rental remuneration referred to in Article 135 paragraph (2) of this Act;
  - f) earning a public lending remuneration referred to in Article 135 paragraph (1) of this Act;
  - g) the right of reproduction, distribution and communication to the public, including an act of making available to the public, on behalf of cultural heritage institutions, for non-commercial purposes, of out-of-commerce performance within the meaning of Article 17 of this Act, and which make a permanent part of the collection of a cultural heritage institution;
  - h) earning an annual supplementary remuneration referred to in Article 147 of this Act;
  - i) earning a remuneration for reproduction for private use referred to in Article 185 paragraph (1) of this Act;
  - j) exercising the right to the further use of ephemeral recordings referred to in Article 190 paragraph (3) of this Act;
  - k) earning a remuneration for reproduction and distribution of a performance by exercising limitation of the performer's right by including it into collections, referred to in Article 197 paragraph (1) of this Act;

2. the rights of phonogram producers, for phonograms, including those incorporated into an audiovisual work, with the rights retained in accordance with Article 142 paragraph (3) of this Act:
  - a) the right of reproduction and communication to the public, including an act of making available to the public, within an ancillary online service;
  - b) earning, in accordance with Article 142 paragraph (1) subparagraph 6 of this Act, a share in a single equitable remuneration for: public communication, public presentation, broadcasting, retransmission, direct injection, public communication of broadcasting, retransmission, direct injection and making available to the public and any other communication to the public of phonograms issued for commercial purposes;
  - c) earning a remuneration for public lending referred to in Article 142 paragraph (1) subparagraph 2 of this Act;
  - d) the rental right;
  - e) the right of reproduction, distribution and communication to the public, including an act of making available to the public, on behalf of cultural heritage institutions, for non-commercial purposes, of out-of-commerce phonograms within the meaning of Article 17 of this Act, and which make a permanent part of the collection of a cultural heritage institution;
  - f) earning a remuneration for reproduction for private use referred to in Article 185 paragraph (1) of this Act;
  - g) earning a remuneration for reproduction and distribution of a phonogram by exercising limitation of the rights of phonogram producers by including it into collections, referred to in Article 197 paragraph (3) of this Act;
3. the rights of an audiovisual producer, for videograms:
  - a) the right of reproduction, distribution, communication to the public, including an act of making available to the public, on behalf of cultural heritage institutions, for non-commercial purposes, of out-of-commerce videograms within the meaning of Article 17 of this Act, and which make a permanent part of the collection of a cultural heritage institution;
  - b) earning a remuneration for public lending referred to in Article 152 subparagraph 2 of this Act;
  - c) earning a remuneration for reproduction for private use referred to in Article 185 paragraph (1) of this Act;
4. the rights of publishers of press publications, for press publications in whole or in part:
  - a) the rental right referred to in Article 165 paragraph (1) subparagraph 2 of this Act when a press publication is given to members of the public for use for a limited period, in places available to the public such as catering facilities, with earning a direct or indirect economic or commercial benefit;
  - b) the right of reproduction and communication to the public in any manner, including an act of making available to the public, when a press publication or any part thereof is used online by an information society service provider, referred to in Article 166 of this Act;
  - c) the right of reproduction, distribution, communication to the public, including an act of making available to the public referred to in Article 165 paragraph (1) subparagraphs from 1 to 3 of this Act, on behalf of cultural heritage institutions, for non-commercial purposes, of out-of-commerce press publications within the meaning of Article 17 of this Act, and which make a permanent part of the collection of a cultural heritage institution;

- d) earning a remuneration for public lending referred to in Article 165 paragraph (1) subparagraph 2 of this Act;
  - e) earning a remuneration for reproduction for private use referred to in Article 185 paragraph (1) of this Act, related to the right of reproduction referred to in Article 165 paragraph (1) subparagraph 1 of this Act;
5. the rights of publishers for written editions:
- a) earning a remuneration for reproduction for private use referred to in Article 185 paragraphs (3) and (4) of this Act.

### ***Individual Management of Rights of a Broadcasting Organisation***

#### Article 219

- (1) The provisions referred to in Articles 217 and 218 of this Act shall not apply to the right of retransmission, including cable retransmission, the right of direct injection, the right of reproduction and communication to the public, including an act of making available to the public, within an ancillary online service, and the right of communication to the public including an act of making available to the public, when providing the public with access to programme signals uploaded by users on platforms for online content-sharing, which belong to a broadcasting organisation with regard to its own programme signals.
- (2) The provision referred to in paragraph (1) of this Article shall relate to a broadcasting organisation's own rights, as well as to those rights ceded to it by establishing the right of exploitation or transferred to it by other holders of copyright and related rights.
- (3) The provisions referred to in this Article shall not apply to the rights to a remuneration that belong to authors and performers as referred to in Article 97 paragraph (4) and Article 101 paragraph (4) of this Act and to other non-renounceable rights of authors and performers under this Act.

### ***Special Provisions on Specific Kinds of Remake***

#### Article 220

- (1) The right of remake that relates to incorporating a non-stage musical work with or without words into cinematographic, television, documentary, cartoon, advertising or other films, into drama, documentary and similar series and in announcing or signing-off of shows, films or series or in a recognisable short audio or audiovisual segment (jingle), shall be exercised individually.
- (2) For all other cases of incorporating a non-stage musical work with or without lyrics into audiovisual works the rights shall be exercised in accordance with Article 217 paragraph (3) item 1 subitems e), f) and g) of this Act.

### ***Special Provisions on Collective Management of Rights to a Remuneration for Reproduction for Private Use***

#### Article 221

- (1) All collective management organisations exercising the right to a remuneration for reproduction for private use for authors and holders of related rights shall authorise one of them in writing to manage the right to a remuneration for identical sound, image or text carriers and identical technical devices referred to in Article 184, paragraphs (1) to (4) of this Act in the name and on behalf of other organisations participating in that agreement or in its own name, and on behalf of those other collective management organisations.

(2) If, after concluding a written agreement between the collective management organisations referred to in paragraph (1) of this Article, a new collective management organisation appears which manages the rights to a remuneration for identical sound, image or text carriers and identical technical devices, it shall be obliged under the same conditions to enter into an existing agreement between existing organisations.

(3) The obligation to submit data referred to in Article 234 of this Act exists only in relation to that collective management organisation that manages the rights for other collective management organisations.

(4) The obligation referred to in paragraph (1) of this Article on concluding an agreement by which collective management organisations appoint one organisation to manage their rights, as well as the obligation referred to in paragraph (3) of this Article on delivery of data to only one collective management organisation shall not apply if there are justifiable reasons for refusing to enter into such agreement which must be duly substantiated.

***Special Provisions on Collective Management of Copyright and Related Rights to  
Journalistic Works and Press Publications***

Article 222

(1) Authors of journalistic works and publishers of press publications may establish a joint collective management organisation, whose general assembly shall decide on a share in the publication referred to in Article 167 paragraph (1) of this Act and on a division of the remuneration referred to in Article 168 paragraph (2) of this Act.

(2) If a joint collective management organisation is not established, publishers of press publications may establish one of their own for collective management of copyright that belong to them under order contracts, employment contracts, other agreements, acts governing employment relations and under this Act, as well as for management of the rights of publishers of press publications, and authors of journalistic works may establish their own organisation for collective management of journalistic copyrights.

(3) In the case referred to in paragraph (2) of this Article, a collective management organisation of publishers of press publications referred to in Article 166 of this Act shall pay a share in the remuneration to a collective management organisation of journalistic copyrights, in accordance with Article 167 paragraph (1) of this Act, pursuant to their mutual agreement.

(4) In the case referred to in paragraph (2) of this Article, the division of a remuneration for journalistic copyright works created on commission or in the course of employment, pursuant to Article 168 paragraph (2) of this Act, shall be determined by an agreement between a collective management organisation established by publishers of press publications and a collective management organisation established by authors of journalistic works.

(5) Collective management organisations shall enter into agreements referred to in paragraphs (3) and (4) of this Article within one year, counting from the date of the later issued approval for performing the activity of collective management of rights in accordance with this Act. If an agreement is not entered into in the given period, any of the collective management organisations may request the Council of Experts to mediate in accordance with Article 239 of this Act.

(6) Instead of proceedings before the Council of Experts referred to in paragraph (5) of this Article, the parties may enter into an arbitration agreement for arbitration before an arbitration court in the constitution referred to in Article 237 of this Act, in proceedings in which Article 236 of this Act shall apply accordingly and in which the arbitration court shall render an award determining the share in the remuneration, in accordance with Article 167,

paragraph (1) of this Act, and the division of the remuneration, in accordance with Article 168 paragraph (2) of this Act, which replaces the agreements referred to in paragraphs (3) and (4) of this Article.

(7) In the cases referred to in Article 169 of this Act, any remuneration for the use of any copyright work or subject matter of related rights, which is made in the system of collective management of rights, shall belong to the publishers of press publications in which they are published.

### ***Special Provisions on Collective Management of Copyright and Related Rights to Out-of-Commerce Works***

#### Article 223

(1) The authorisation for reproduction, distribution, communication to the public, including an act of making available to the public, for non-commercial purposes, of out-of-commerce copyright works and subject matter of related rights within the meaning of Article 17 of this Act, and that make a permanent part of their collections, shall be requested by cultural heritage institutions in the Republic of Croatia from relevant collective management organisations established in the Republic of Croatia, if there are any. If such collective management organisations do not exist in the Republic of Croatia, Article 192 of this Act shall apply.

(2) Relevant collective management organisations may grant an authorisation for using out-of-commerce copyright works and subject matter of related rights to cultural heritage institutions in the Republic of Croatia, for using in any Member State of the European Union.

(3) Information on the authorisations referred to in this Article shall be submitted by collective management organisation to the European Union Intellectual Property Office, in accordance with Article 17 paragraph (5) of this Act.

### ***Requirements for Collective Management of Rights***

#### Article 224

(1) Collective management of rights in the territory of the Republic of Croatia may be carried out by a collective management organisation which has the authorisation granted by the Office for performing such activity.

(2) The authorisation referred to in paragraph (1) of this Article shall be granted by the Office to an association or another collective management organisation on request which fulfils the following requirements:

- has its residence or principle place of establishment in the European Union;
- has adequate material and human resources to perform the activity of collective management of rights; and
- is engaged in the collective management of rights as its sole or main activity.

(3) A collective management organisation shall be presumed to meet the requirements referred to in paragraph (2) subparagraph 2 of this Article if it has:

- business premises furnished with information and communication equipment appropriate to fulfil the stipulated obligations arising from performing activities of collective management of rights; and
- professional service to conduct legal and financial affairs, employing minimum one person with an undergraduate or graduate university degree in law or identical faculty of law in accordance with previously valid regulations, having at least two years of professional experience in managing copyright and related rights and a command of English, French or German, and minimum one person qualified in profession to satisfy

the regulations for accounting and having at least two years of professional experience in organising and keeping the accounts.

(4) Notwithstanding the provisions referred to in paragraph (3) subparagraph 2 of this Article, a collective management organisation may entrust legal and accounting affairs by a written contract to an attorney or a legal person who is registered for accounting, if they meet other requirements prescribed in paragraph (3) subparagraph 2 of this Article. The collective management organisation shall supervise the performance of these tasks. The existence of a contract for the performance of these tasks shall not affect the duty of the collective management organisation to fulfil all obligations in accordance with this Act.

(5) For collective management of rights, the Office can grant an authorisation to only one collective management organisation for a particular category of rights and a particular category of right holders, taking into account the number of members based on powers of attorney received, the number of joint representation agreements with collective management organisations in other states, as well as other circumstances indicating that this collective management organisation would be the most efficient one in collective management of rights.

(6) It shall be presumed that the collective management organisation referred to in paragraph (5) of this Article has powers of attorney for collective management of rights for which it is authorised for all domestic and foreign holders of such rights, except for that right holder who has notified the collective management organisation explicitly in writing not to manage his rights.

(7) The decision passed by the Office in the procedure of granting the authorisation referred to in paragraph (1) of this Article cannot be appealed, but an administrative dispute can be initiated.

(8) The collective management organisation shall manage the rights in its own name or on behalf of the right holders, and for the account of the right holder.

(9) The collective management organisation shall inform a user on his request of the right holders whose rights it does not manage based on the notification referred to in paragraph (6) of this Article.

(10) Collective management organisations and the Office shall publish the information on their websites in an appropriate and visible manner on the presumption referred to in paragraph (6) of this Article and the possibility for right holders to be exempt from the application of that presumption in accordance with paragraph (6) of this Article.

(11) The collective management organisation which grants multi-territorial licences for online rights in musical copyright works (hereinafter: multi-territorial licences) shall have corresponding information capacity to process electronically data needed for the grant of such licences, identifying the repertoire and monitoring its use, exchange of data with right holders and online service providers, invoicing users, collecting rights revenue and distributing amounts due to right holders.

(12) The Office shall keep records of collective management organisations authorised to perform collective management of rights in the territory of the Republic of Croatia. The regulations referred to in paragraph (14) of this Article shall regulate which data from the records the Office shall publish on its website.

(13) If the Office has not issued an authorisation due to non-compliance with the requirements referred to in this Article, a repeated request of the same applicant for an authorisation for the same type of right and the same category of rights may not be submitted before the expiration of five years from the date of submitting the first request.

(14) The content of the request for the grant of authorisation referred to in this Article and the list of documentation to be attached to the request shall be regulated by a special regulations issued by the Minister responsible for copyright and related rights, with the prior consent of the Director General of the Office.

### *Special Requirements for Independent Management Entities*

#### Article 225

(1) An independent management entity having a residence or a place of establishment in the Republic of Croatia or another Member State of the European Union may collectively manage the rights in the territory of the Republic of Croatia.

(2) If it has a residence or a place of establishment in the Republic of Croatia, an independent management entity may collectively manage the rights in the Republic of Croatia if it is authorised by the Office to perform such activity.

(3) If it has a residence or a place of establishment in another Member State of the European Union, an independent management entity may collectively manage the rights in the Republic of Croatia if, under the law of the State in which it has a residence or a place of establishment, it may collectively manage the rights in that State and if it previously notified the Office of its intention to collectively manage the rights in the Republic of Croatia.

(4) The authorisation referred to in paragraph (2) of this Article shall be granted by the Office to an independent management entity on request which fulfils the following requirements:

- has adequate material and human resources to perform the activity of collective management of rights; and
- is engaged in the collective management of rights as its sole or main activity.

(5) An independent management entity shall be presumed to meet the requirements referred to in paragraph (4) subparagraph 1 of this Article if it has:

- business premises furnished with information and communication equipment appropriate to fulfil the stipulated obligations arising from performing activities of collective management of rights; and
- professional service to conduct legal and financial affairs, employing minimum one person with an undergraduate or graduate university degree in law or identical faculty of law in accordance with previously valid regulations, having at least two years of professional experience in managing copyright and related rights and a command of English, French or German, and minimum one person qualified in profession to satisfy the regulations for accounting and having at least two years of professional experience in organising and keeping the accounts.

(6) Notwithstanding the provisions referred to in paragraph (5) subparagraph 2 of this Article, an independent management entity may entrust legal and accounting affairs by a written contract to an attorney or a legal person who is registered for accounting, if they meet other requirements prescribed in paragraph (5) subparagraph 2 of this Article. The independent management entity shall supervise the performance of these tasks. The existence of a contract for the performance of these tasks shall not affect the duty of the independent management entity to fulfil all obligations in accordance with this Act.

(7) The Office shall grant authorisation referred to in paragraph (2) of this Article to the independent management entity which furnished relevant written evidence in the form of a contract or power of attorney to represent certain right holders with regard to certain right, categories of rights and types of works or subject matter of related rights, which in compliance with the provisions referred to in Article 224 paragraph (6) of this Act notified explicitly in writing the collective management organisation authorised by the Office not to manage their rights, namely for individual type of rights not indicated in Article 217 paragraph (3) and Article 218 paragraph (3) of this Act.



(8) The decision passed by the Office in the procedure of granting the authorisation referred to in paragraph (2) of this Article cannot be appealed, but an administrative dispute can be initiated.

(9) In a written notification to the Office referred to in paragraph (3) of this Article, the independent management entity shall provide all information on all right holders, including the information on the rights, categories of rights, types of works or subject matter of related rights it intends to manage for these right holders based on powers of attorney obtained. The Office may request from such entity other information as well, such as individual powers of attorney, identification of a right holder and subject matter of protection for which it manages the rights, notifications of a right holder given in accordance with the provisions referred to in Article 224 paragraph (6) of this Act and the like.

(10) During its performance of collective management of rights, an independent management entity shall regularly notify the Office of all the changes to the information referred to in paragraphs (7) and (9) of this Article.

(11) An independent management entity shall manage the rights in its own name or on behalf of the right holder, and for the account of the right holder.

(12) The presumption referred to in Article 224 paragraph (6) of this Act shall not apply to independent management entities, but they shall furnish evidence for the repertoire for which they are authorised to manage the rights.

(13) An independent management entity shall notify the user on request on the right holders whose rights it manages based on a contract or power of attorney and attach relevant written evidence thereto.

(14) An independent management entity shall publish the repertoire for which it is authorised to manage the rights on its website in an appropriate and visible manner, in Croatian and Latin transcription.

(15) The content of the request for the grant of authorisation referred to in paragraph (2) of this Article and the list of documentation to be attached to the request shall be regulated by the regulations referred to in Article 224 paragraph (14) of this Act.

(16) The Office shall keep records of independent management entities authorised to perform collective management of rights in the territory of the Republic of Croatia. The regulations referred to in Article 224 paragraph (14) of this Act shall regulate which data from the records the Office shall publish on its website.

(17) If the Office has not issued an authorisation due to non-compliance with the requirements referred to in this Article, a repeated request of the same independent management entity for an authorisation for the same type of right and the same category of rights may not be submitted before the expiration of five years from the date of submitting the first request.

(18) The regulations referred to in Article 224 paragraph (14) of this Act shall also regulate the content of the notification referred to in paragraph (3) of this Article.

### ***Entrusting the Management of Rights and Mutual Representation***

#### Article 226

(1) A collective management organisation may manage one, two or more types of rights that usually relate to a particular category of right holders.

(2) The collective management organisation may entrust certain kind of tasks regarding the management of rights to another collective management organisation in the form of a written contract. The entrusted collective management organisation shall manage the rights on

behalf and for the account of the entrusting collective management organisation, or on its own behalf and for the account of the entrusting collective management organisation.

(3) The collective management organisation may entrust certain administrative, technical or accessory works, such as invoicing of users or distributing amounts due to right holders to another natural or legal person, in the form of a written contract. The collective management organisation shall supervise the performance of these tasks. The existence of the contract on performing these tasks shall not influence the duty of the collective management organisation to fulfil all the obligations pursuant to this Act.

(4) The collective management organisation established by this Act may enter into a joint representation agreement with another such collective management organisation established by the act of another Member State of the European Union or by the act of any other state for the management of the same kind of rights. In this case, the collective management organisation cannot discriminate the right holders whose rights it manages, particularly in relation to applicable prices, management fee and the conditions of collecting the rights revenue and distributing amounts due to right holders.

(5) Representation agreement is any agreement between collective management organisations whereby one collective management organisation mandates another collective management organisation to manage the rights it represents, including an agreement concluded under Articles 258 and 259 of this Act.

(6) The provisions referred to in this Article shall apply accordingly to independent management entities as well.

## **Chapter 2**

### **RELATIONSHIP BETWEEN THE COLLECTIVE MANAGEMENT ORGANISATION AND A RIGHT HOLDER**

#### *Holder's Rights*

##### Article 227

(1) The right holder shall have the right to freely choose and to authorise a collective management organisation in any Member State of the European Union for the management of the rights, categories of rights or types of works or subject matter of related rights of his own choice, for the states of his own choice, irrespective of the European Union Member State of nationality, residence or place of establishment. The chosen collective management organisation resident or established in the Republic of Croatia shall accept the management of such rights, categories of rights or types of works or subject matter of related rights where such management falls within the scope of its activity, unless it has objectively justified reasons to refuse such authorisation.

(2) The right holder shall have the right to grant licences for non-commercial uses of any rights, categories of rights or types of works and other subject matter that he may choose, and a collective management organisation shall inform the right holders whose rights it manages of the conditions under which right holders may grant licences for non-commercial uses of their works or subject matter of the related rights which they authorised this collective management organisation to manage. Non-commercial use is considered to be the use with no economic or commercial benefit provided either directly or indirectly.

(3) The right holder may terminate the authorisation to manage rights granted by him to a collective management organisation entirely or in relation to a particular right, a category of rights or a type of works or subject matter of related rights of his choice, for the territories of his choice, upon serving notice not exceeding six months, regardless of whether at the same

time he authorised another collective management organisation to manage his rights. The collective management organisation may decide that such termination is to take effect at the end of the financial year.

(4) The right holder shall retain all the rights against a collective management organisation in relation to the uses which occurred and the licences for the use granted by a collective management organisation before the termination as referred to in paragraph (3) of this Article took effect.

(5) Any authorisation to manage rights and the termination of such authorisation shall be evidenced in writing, documenting specific rights, categories of rights or types of works or subject matter of related rights covered thereby.

(6) A collective management organisation shall provide in its statute and/or membership rules that right holders shall at least have the rights as referred to in this Article, publish it on its website, and inform right holders of these rights before their granting licences for management.

### ***Members of a Collective Management Organisation***

#### Article 228

(1) A member of the collective management organisation is a right holder or an entity representing right holders, including other collective management organisations and associations of right holders, fulfilling the membership requirements of the collective management organisation and admitted by it.

(2) A collective management organisation shall accept all right holders and entities representing right holders, including other collective management organisations and associations of right holders, as members if they fulfil the membership requirements, which shall be based on objective, transparent and non-discriminatory criteria.

(3) The membership requirements shall be included in the statute or rules to set out membership terms of the collective management organisation as well as rights and obligations of the members, and shall be made publicly available.

(4) The decision of a collective management organisation on refusal to accept a request for membership shall be clearly reasoned.

(5) The statute of a collective management organisation shall provide for appropriate and effective mechanisms for the participation of its members in the organisation's decision-making process. The representation of the different categories of members in the decision-making process shall be fair and balanced.

(6) A collective management organisation shall ensure that its members communicate with it by electronic means, including for the purposes of exercising members' rights.

(7) A collective management organisation shall keep records of its members and shall regularly update those records.

### ***Rights of Right Holders Who Are Not Members of the Collective Management Organisation***

#### Article 229

A collective management organisation shall accordingly apply all the rights pertaining to its members to the right holders it represents based on a presumed power of attorney and to the right holders who are not its members, but it represents them based on a contractual arrangement, except for the rights relating to the management and decision-making in the collective management organisation.

### Chapter 3

## INTERNAL STRUCTURE OF THE COLLECTIVE MANAGEMENT ORGANISATION

### *General Assembly of Members*

#### Article 230

- (1) General assembly of members is the body of the collective management organisation wherein members participate and exercise their voting rights, regardless of the legal form of the collective management organisation.
- (2) A general assembly of members shall be convened at least once a year.
- (3) The general assembly of members shall have the following powers:
  - adopting of the statute, its amendments and deciding on presumptions for membership in the collective management organisation unless regulated by the statute;
  - the appointment or dismissal of board members, review of their general performance and approval of their remuneration and other benefits, such as monetary and non-monetary benefits, voluntary pension funds, rights to awards and severance pay;
  - the general policy on the distribution of amounts due to right holders;
  - the general policy on the use of non-distributable amounts and deciding on the use of non-distributable amounts, exclusively for the purpose of managing social, cultural and educational activities to the benefit of right holders;
  - the general investment policy with regard to rights revenue and to any income arising from the investment of rights revenue;
  - the general policy on deductions from rights revenue and from any income arising from the investment of rights revenue;
  - the risk management policy;
  - the approval of any acquisition, sale or mortgage of immovable property owned by the collective management organisation;
  - the approval of mergers and alliances with other entities, the setting-up of subsidiaries, and the acquisition of other entities or shares or rights in other entities;
  - the approval of taking out loans, granting loans or providing security for loans.
- (4) Statute is the fundamental general act containing the rules of constitution and operation of a collective management organisation in terms of regulations governing status issues of legal persons.
- (5) Board member is:
  - any member of the management board where this Act or the statute of the collective management organisation provides for a unitary board;
  - any member of the management board or the supervisory board where this Act or the statute of the collective management organisation provides for a dual board.
- (6) In a collective management organisation with a dual board system, the general assembly of members shall not decide on the appointment or dismissal of members of the management board or approve their remuneration and other benefits where the power to take such decisions is delegated to the supervisory board.
- (7) The general assembly of members may delegate the powers listed in paragraph (3) subparagraphs from 7 to 10 of this Article, by a provision in the statute or by a special resolution, to the body exercising the supervisory function of the management of a collective management organisation.

(8) The general assembly of members shall be authorised to supervise the operation of a collective management organisation, in particular:

- to decide on the appointment and dismissal of auditors, and
- to approve of the annual transparency report as referred to in Article 251 of this Act.

(9) All members of the collective management organisation shall have the right to participate in, and the right to vote at, the general assembly of members. In its statute or membership terms, the collective management organisation may restrict on the right of the members of the collective management organisation to participate in, and to exercise voting rights at, the general assembly of members, on the basis of one or both of the following criteria, provided that such criteria are determined and applied in a manner that is fair and proportionate:

- duration of membership;
- amounts received or due to a member.

(10) Every member of a collective management organisation shall have the right to appoint any other natural person or legal entity as a proxy holder by a notarised special power of attorney to participate in, and vote at, the general assembly of members on his behalf, provided that such appointment does not result in a conflict of interest which might occur for example, where the appointing member and the proxy holder belong to different categories of right holders within the collective management organisation. The proxy holder's appointment shall be valid for a single general assembly of members. The proxy holder shall enjoy the same rights in the general assembly of members as those to which the appointing member would be entitled and he shall participate in, and cast votes in accordance with the instructions issued by the appointing member, which are included in the power of attorney. Statute or another act of the collective management organisation can provide detailed limitations regarding the appointment of proxy holders and their voting rights on behalf of the appointing members.

(11) The collective management organisation may set out in its statute that the powers of the general assembly of members may be exercised by an assembly of delegates elected at least every four years at the general assembly of members, provided that:

- appropriate and effective participation of members in the collective management organisation's decision-making process is ensured; and
- the representation of the different categories of members in the assembly of delegates is fair and balanced.

(12) The provisions referred to in paragraphs (2) and (3) and paragraphs from (6) to (10) of this Article shall apply *mutatis mutandis* to the assembly of delegates under paragraph (11) of this Article.

(13) Where a collective management organisation, by reason of its legal form, does not have a general assembly of members, the powers of that assembly are to be exercised by the body exercising the supervisory function as referred to in Article 231 of this Act. In this case, the rules laid down in this Article, except for paragraphs from (5) to (7), shall apply *mutatis mutandis* to such body exercising the supervisory function.

(14) Where a collective management organisation has members who are only entities representing right holders, all or some of the powers of the general assembly of members under this Article may be transferred by its statute to a general assembly of those entities. In this case, the rules laid down in this Article, except for paragraphs from (11) to (13) shall apply *mutatis mutandis* to the general assembly of members of those entities.

### ***Supervisory Function***

#### Article 231

- (1) A collective management organisation shall have a body to exercise a supervisory function for continuously monitoring the activities and the performance of the duties of the persons who manage the business of the collective management organisation.
- (2) There shall be fair and balanced representation of the different categories of members of the collective management organisation in the body exercising the supervisory function.
- (3) Each member of the body exercising the supervisory function shall make an individual statement on conflicts of interest, containing the information referred to in Article 232 paragraph (3) of this Act, to the general assembly of members.
- (4) The body exercising the supervisory function shall meet regularly and shall have the following powers:
  - to exercise the powers delegated to it by the general assembly of members, including the powers under Article 230 paragraph (3) subparagraph 2 and paragraph (7) of this Act; and
  - to monitor the activities and the performance of the duties of the persons referred to in Article 232 of this Act, including the implementation of the decisions of the general assembly of members and, in particular, of the general policies listed in Article 230 paragraph (3) subparagraphs 3 to 6 of this Act.
- (5) The body exercising the supervisory function shall report on the exercise of its powers to the general assembly of members once a year.

### ***Obligations of the Persons Who Manage the Business of the Collective Management Organisation***

#### Article 232

- (1) The persons who manage the business of the collective management organisation shall do so in an extra attentive, prudent and appropriate manner, using sound administrative and accounting procedures and internal control mechanisms.
- (2) A collective management organisation shall put in place and apply procedures to avoid conflicts of interest. Where such conflicts cannot be avoided, it shall identify, manage, monitor and disclose any actual or potential conflicts of interest in such a way as to prevent them from adversely affecting the collective interests of the right holders whom the organisation represents.
- (3) The procedures referred to in paragraph (2) of this Article shall include the obligation of an individual statement by each of the persons who manage the business of the collective management organisation to the general assembly of members, containing the following information:
  - any interests in the collective management organisation;
  - any remuneration received in the preceding financial year from the collective management organisation, including in the form of pension schemes, benefits in kind and other types of benefits;
  - any amounts received in the preceding financial year as a right holder from the collective management organisation; and
  - a declaration concerning any actual or potential conflict between any personal interests and those of the collective management organisation or between any obligations owed to the collective management organisation and any duty owed to any other natural or legal person.

## Chapter 4

### RELATIONSHIP BETWEEN A COLLECTIVE MANAGEMENT ORGANISATION AND THE USERS

#### *Granting of Authorisation for Use*

##### Article 233

(1) Prior to starting to use a particular subject matter of protection, a legal or a natural person shall submit a request for the authorisation of such use to a relevant collective management organisation. The request shall include information on the type and circumstances of the use, such as manner, place and time of the use, and other information required for establishing the amount of remuneration.

(2) The collective management organisation shall respond to the request for the authorisation of such use within an appropriate time-limit, indicating in particular the information needed for the authorisation to be granted. Upon receipt of all the relevant information, the organisation shall grant the authorisation to a user or provide a reasoned reply why the authorisation cannot be granted.

(3) The authorisation shall include the indication of the types of rights to which it applies, conditions of use in terms of manner, place and time, and the amount of remuneration for the use, where the use is subject to payment of remuneration. The requirements for the authorisation of such use shall be based on objective and non-discriminatory criteria.

(4) A user shall submit to a collective management organisation, without delay, the information relating to any change of circumstances of such use or of its termination, in order to change accordingly the conditions under which the authorisation has been granted or to withdraw the authorisation.

(5) A collective management organisation shall allow the users to submit the request for the authorisation of such use and to communicate with it in connection with the authorisation by electronic means.

(6) A legal or natural person which or who allows the use of its or his premises to another person who uses subject matter of protection in such space, shall check whether that person has adequate authorisation for the use of the subject matter of protection. Where a legal or a natural person has allowed the use of its or his premises to a person not having such authorisation, although knowing or having reasons to know that subject matter of protection will be used in such premises, shall be jointly and severally liable to pay a corresponding remuneration for the use of the subject matter of protection.

#### *Users' Obligations*

##### Article 234

(1) Users shall provide a collective management organisation within an agreed or pre-established time and in an agreed or pre-established format, with such relevant information at their disposal, as is necessary for the collection of rights revenue and/or for the distribution of amounts due to right holders. When deciding on the format for the provision of such information, a collective management organisation and users shall take into account, as far as possible, the standards voluntarily applied in the related area ( hereinafter: voluntary industry standards).

(2) A collective management organisation shall, as far as possible, allow users to provide the information as referred to in paragraph (1) of this Article by electronic means.

(3) In case of insufficient information on or an unauthorised use of the subject matter of protection, the competent state administration bodies or other natural and legal persons having such information at their disposal, shall submit to the collective management organisation at its request the information that relate to the management of rights under this Act, except in cases when such provision of the information would be contrary to the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) or the Act on the Protection of Undisclosed Commercially Sensitive Information.

### *Prise for the Use of Subject matter of Protection*

#### Article 235

(1) A price and other requirements for the use of the subject matter of protection shall be regulated primarily by a contract between a collective management organisation and a user of the subject matter of protection or by a contract between a collective management organisation and a chamber of users of the subject matter of protection. If users are not organised through a chamber or it results from the circumstances that users' interest will be better represented through another association of users of the subject matter of protection, a collective management organisation may enter into a contract with another association of users. Collective management organisations and users or their chambers or associations shall conduct negotiations for entering into such contracts in good faith and provide each other with all the information necessary to reach an agreement.

(2) If the price for such use is not set in compliance with paragraph (1) of this Article, it shall be paid according to the tariffs of a collective management organisation.

(3) Prior to setting the tariffs as referred to in paragraph (2) of this Article, a collective management organisation shall submit the proposal thereof for the declaration by a chamber or another association of users.

(4) If a chamber or another association of users fail to furnish a written declaration to a collective management organisation within 30 days upon receipt of the tariff proposal, it shall be presumed that they do not oppose to the proposed tariffs.

(5) If a chamber or another association of users does not accept the tariffs wholly or partly in a written declaration, it can agree on arbitration with a collective management organisation in order to determine the related tariffs, within 60 days upon receipt of the tariff proposal at the latest. A collective management organisation and users can agree on arbitration in advance, establishing to settle any dispute in the procedure of setting the tariffs in arbitration. Arbitration shall be conducted in compliance with the provisions as referred to in Article 236 of this Act.

(6) If a collective management organisation and a chamber or another association of users do not agree on arbitration within the time-limit as referred to in paragraph (5) of this Article, the collective management organisation shall request the Council of Experts for its opinion on the subject matter of disagreement within further 15 days. The Council of Experts shall render its opinion within 60 days upon receipt of the request. The Council of Experts may, for justified reasons, prolong the time-limit for rendering its opinion maximum by another 30 days, which shall be notified to the parties in the procedure of rendering the opinion prior to the expiry of the first time-limit of 60 days.

(7) Until the procedure for adopting the tariffs referred to in paragraphs from (3) to (6) of this Article is completed, the price shall be paid in accordance with the approved tariffs or as an advance payment according to the proposed tariffs if the approved tariffs do not contain a particular type of using the subject matter of protection.



(8) Until the procedure for adopting the tariffs referred to in paragraphs from (3) to (6) of this Article is completed, with regard to the amounts of a remuneration for reproduction for private use under this Act, the price shall be paid according the approved tariffs, and if the approved tariffs do not contain a particular technical device or a sound, image or text carrier, the user shall pay the undisputed amount of the price from the tariff proposal, and for the disputed amount the collective management organisation may request the user to submit appropriate quality payment security, which the user shall submit within the time-limit set by the collective management organisation. If the user, at the request of the collective management organisation, fails to submit the required quality security for the payment of the disputed amount of remuneration within the set time-limit, he shall pay an advance according to the tariff proposal.

(9) The opinion of the Council of Experts referred to in paragraph (6) of this Article shall contain its evaluation of whether the tariffs of a collective management organisation relate to the rights for management of which a collective management organisation has the authorisation pursuant to the provisions of this Act, and an opinion on whether the prices conform to the principles referred to in Article 240 of this Act. If the Council of Experts fails to give its opinion within the period referred to in paragraph (6) of this Article, it shall be presumed that it agrees with the proposed tariffs.

(10) After the completion of the procedures referred to in this Article, the tariffs shall be, pursuant to Article 250 of this Act, published on the website of a collective management organisation, and they shall apply to all users who use the subject matter of protection as provided by the tariffs, starting from the day of initiating a procedure to set the tariffs pursuant to the provisions as referred to in paragraph (3) of this Article.

### *Setting the Tariffs before the Arbitration Court*

#### Article 236

(1) In compliance with the provisions as referred to in Article 235 paragraph (5) of this Act, the parties may enter into an agreement to finally settle their dispute over the tariffs in arbitration according to the valid Rules of Arbitration of the Permanent Arbitration Court at the Croatian Chamber of Commerce (hereinafter: Zagreb Rules), unless provided otherwise by this Act.

(2) Arbitration on the tariffs shall be conducted pursuant to the provisions on the accelerated arbitration process in terms of the Zagreb Rules as referred to in paragraph (1) of this Article, regardless of the value of the subject matter in dispute, and to other applicable provisions of the Zagreb Rules. An accelerated arbitration process on the tariffs can take no longer than three months as a rule, counting from the date of the arbitration court being constituted in line with the provisions under Article 237 of this Act. Time-limits provided by the Zagreb Rules in relation to an accelerated arbitration process for the parties to undertake certain actions can be reduced by the arbitration court if it assesses this to be in the interest of the process efficiency, observing thereby the principle of equal treatment of the parties.

(3) If the tariffs are proposed by two or more collective management organisations, they are all together deemed to be one party to the arbitration process. If the interests of users whom the tariffs in arbitration process shall be applied to are represented by several chambers and/or other associations of users, they are all together deemed to be one party to the arbitration process.

(4) The tariffs of a collective management organisation shall be determined by arbitration award in compliance with the principles as referred to in Article 240 of this Act.

(5) The tariffs determined by arbitration award as referred to in paragraph (4) of this Article, pursuant to Article 250 of this Act, shall be published on a website of the concerned

collective management organisation and shall apply to all users who use the subject matter of protection as provided by the tariffs, starting from the day of initiating a procedure to set the tariffs pursuant to the provisions as referred to in Article 235 paragraph (3) of this Act.

### *Constitution of Arbitration Court*

#### Article 237

- (1) Arbitration court has three arbitrators who are appointed from the List of Arbitrators before the Permanent Arbitration Court at the Croatian Chamber of Commerce, who need to be experts in the field of copyright and related rights.
- (2) President of the arbitration court needs to be a judge or an ex-judge of the High Commercial Court of the Republic of Croatia.
- (3) Each party shall appoint one arbitrator in an arbitration agreement as referred to in Article 235 paragraph (5) of this Act. Thus appointed arbitrators shall appoint a president of the arbitration court no later than within 15 days upon conclusion of the arbitration agreement.
- (4) If arbitrators appointed by the parties cannot agree on the president of the arbitration court, he will be appointed by the president of the Permanent Arbitration Court at the Croatian Chamber of Commerce.

### *Constitution and Operation of the Council of Experts*

#### Article 238

- (1) The Council of Experts shall consist of a president and four members. A president and the members of the Council of Experts shall be appointed for a period of four years by the Minister responsible for the field of copyright and related rights, on the proposal by the Director General of the Office.
- (2) A president and the members of the Council of Experts shall be selected from among the renowned experts, who may contribute to the achievement of objectives of the Council of Experts owing to their prior accomplishments and expertise in issues related to the implementation of copyright and related rights.
- (3) The Director General of the Office shall initiate the procedure of election of the president and members of the Council by a public invitation.
- (4) If the Minister considers that the proposed candidates are not adequate to assure the appropriate constitution of the Council of Experts, he shall order the Director General to repeat the election procedure.
- (5) The Council of Experts renders its opinions on a session by the majority of votes of all its members.
- (6) Prior to delivering its opinions, the Council of Experts may invite other competent persons having expertise in certain issues, to attend the sessions, without the right to vote. The sessions of the Council of Experts may also be attended, without the right to vote by the officials and other employees of the Office dealing with the subject matter of the session.
- (7) The president, the members of the Council of Experts as well as the invited experts shall have the right to remuneration for their work. The remuneration shall be paid by the parties involved in the respecting matter in the equal shares, unless otherwise decided by the Council of Experts.
- (8) The Council of Experts shall adopt its Rules of Procedure.
- (9) Supervision of the operation of the Council of Expert shall be conducted by the Director General of the Office.
- (10) In supervising the operation of the Council of Experts, the Director General of the Office may propose to the Minister responsible for copyright and related rights to discharge

the President or a member of the Council of Experts if he finds that he does not perform his duties without a justified reason in accordance with the provisions of this Act or the Rules referred to in paragraph (8) of this Article.

(11) Upon prior consent of the Director General of the Office, the Minister responsible for copyright and related rights shall issue the rules on the Council of Experts regulating the appointment of members of the Council of Experts, the operation of the Council of Experts and the remuneration referred to in paragraph (7) of this Article.

### *Mediation of the Council of Experts*

#### Article 239

- (1) The Council of Experts shall also carry out the following procedures of mediation:
1. mediation in respect of conclusions of the contracts on retransmission, including cable retransmission, and on transmission by direct injection, between collective management organisations and retransmission operators, including cable retransmission, or transmission by direct injection; as well as between broadcasting organisations and retransmission service operators, including cable retransmission, or transmission by direct injection, in respect of granting authorisation for retransmission, including cable retransmission, and transmission by direct injection and/or payment of the related remuneration;
  2. mediation in respect of conclusions of the contracts in order to make audiovisual works available to the public within services of video-on-demand;
  3. mediation in respect of the provision of access to a copyright work or subject matter of related rights and its use in compliance with the content limitation of copyright and related rights under this Act, between a person who claims to be authorised pursuant to this Act to use a copyright work or subject matter of related rights without the right holder's authorisation or without the authorisation and without payment of remuneration, and the right holder, or other person, respectively, who applied technical protection measures to the access to or the use of copyright works subject matter of related rights, or who is authorised and has the possibility to remove them;
  4. mediation stipulated in Article 53 paragraph (3) of this Act;
  5. mediation in respect of amendments to the contract or its modification for a more fair share in the profit referred to in Article 68 of this Act;
  6. mediation in respect of fulfilling the obligation of transparency referred to in Article 69 of this Act;
  7. mediation between a collective management organisation established by publishers of press publications and the one established by authors of journalistic works in order to achieve agreement on the share in remuneration referred to in Article 167 paragraph (1) of this Act; and
  8. mediation between a collective management organisation established by publishers of press publications and the one established by authors of journalistic works in order to achieve agreement on the share in remuneration referred to in Article 168 paragraph (2) of this Act.
- (2) The Council of Experts will, as a mediator in negotiations referred to in paragraph (1) of this Article, assist the parties to achieve the agreement. The Council of Experts shall be authorised to submit proposals to the parties concerning the regulation of their mutual relations. The proposals shall be submitted in person, or by registered mail. If none of the parties expresses its opposition by registered post within three months as from the receipt of the proposal, it shall be considered that both parties accept such proposal. If it is a matter of

disputes referred to in paragraph (1) items 1, 2 or 4 of this Article, the parties shall include such proposal of the Council of Experts in the related contract.

(3) All parties to disputes referred to in paragraph (1) of this Article shall enter, conduct and finish negotiations in good faith. They shall be liable for any abuse of negotiations or negotiating positions, or their rights in compliance with the act regulating civil obligations.

(4) Mediation procedure referred to in paragraph (1) items 4 and 5 of this Article may be initiated by right holders and right holders' associations on an individual request of one or more right holders.

### ***Principles for Setting the Prices for Using Subject matter of Protection***

#### Article 240

(1) The price for the use of the subject matter of protection must be appropriate, regardless of whether it is a matter of exclusive rights or rights to remuneration in the case where a subject matter of protection under this Act may be used without the right holder's authorisation. Tariffs must be reasonable in relation to, *inter alia*, the economic value of the use of the rights on the market, taking into account the nature and scope of the use of the subject matter of protection, the economic value of the service provided by a collective management organisation and accordingly the tariffs applicable in other Member States of the European Union for the same kind and form of the use and the same kind of the right.

(2) With setting the price as referred to in paragraph (1) of this Article, religious, social and cultural needs of users who belong to sensitive social groups of pensioners, children and people with disabilities, shall be taken into account to an appropriate extent.

(3) A collective management organisation shall notify on request the user concerned of the criteria it has taken into account with setting the tariffs.

(4) With setting the price for using subject matter of protection online, a collective management organisation shall not be required to use the tariffs as a role model already determined for other kinds and forms of online services if it is a matter of the use in a new type of online service which has been available in the European Union for less than three years.

(5) If the use of the subject matter of protection is essential for the activity of a user in a way that its activity depends on such use, as it is in cases of broadcastings, retransmission, transmission by direct injection, concert, dance or other uses of the subject matter against payment, the price shall be determined in principle as a percentage of the income, or earning achieved by a user from using the subject matter of protection.

(6) If the costs necessary for the use of the subject matter of protection are higher than the income from such use, the price can be determined as a percentage of the costs necessary for the use of the subject matter of protection, such as remunerations or salaries of performing artists, or the costs of using the facilities for the use of the subject matter of protection or another corresponding costs.

(7) In addition to the prices determined as a percentage, the minimum lump sum of the prices shall be specified.

(8) If the use of the subject matter of protection is not essential for a user, but is useful or enjoyable, such as in case of accommodation facilities, exposition places, transport means and certain catering objects, as a rule the tariff shall be set as a lump sum for permanent and occasional uses of the subject matter of protection.

(9) When setting the price as a lump sum as referred to in paragraph (8) of this Article and the minimum amounts of the prices as referred to in paragraph (7) of this Article, circumstances of the use of the subject matter of protection shall be taken into account, such

as the type of the use, place and geographical location, category and size of the facilities for the use of the subject matter of protection, duration and number of the uses, and difference in prices regarding a user's business.

(10) The price for reproduction and communication to the public, including an act of making available to the public, of press publications in digital format, pursuant to Article 166 paragraph (1) of this Act, shall be set, as a rule, as a percentage of all direct and indirect revenues, or earnings achieved by an information society service provide with regard to the use of a press publication, with setting the lowest price or, if that is not possible, as a lump sum.

(11) With setting the price for reproduction and communication to the public, including an act of making available to the public, of copyright works and subject matter of related rights used in ancillary online services which the country of origin principle referred to in Article 49 of this Act shall be applied to, all aspects of ancillary online service, in addition to other criteria from this Article, shall be taken into account, such as characteristics of the service, including the duration of online availability of programs provided under that service, the public, including the public in the Republic of Croatia and in other states with access to the ancillary online service and using that service and available language versions. This shall not preclude the possibility of setting the price based on earnings of a broadcasting organisation.

(12) With setting the price for retransmission, including cable retransmission and transmission by direct injection, the economic value of using the right in trade shall be taken into account, in addition to other criteria from this Article, including the value assigned to the means of retransmission, including cable retransmission, and transmission by direct injection.

(13) If a user fails to submit the information required for setting the price for the use of the subject matter of protection, a collective management organisation may establish itself this information according to information collected in compliance with Articles 234 and 241 of this Act, or in another appropriate way.

(14) Appropriate remuneration for the reproduction for private use referred to in Article 184 paragraphs (2) and (3) of this Act is a fair remuneration, whereby, in determining the amount of appropriate remuneration, in addition to the principle for setting the price of using the subject matter of protection referred to in paragraph (1) of this Article, the probable damage to the right holder incurred shall be taken into account when his work or subject matter of related rights is reproduced for private use without his authorisation, the application of technical measures of protecting access to the use of works or subject matter of related rights and other circumstances that may affect the proper measurement of the form and amount of appropriate remuneration. The appropriate remuneration shall not unreasonably burden the business of a manufacturer and importer referred to in Article 184 paragraph (1) of this Act, so that the price of blank sound, image or text carriers, technical devices and other relevant market circumstances shall be taken into account when determining the amount of the appropriate remuneration. Before initiating the procedure of adopting the tariffs referred to in Article 235 of this Act for new blank sound, image or text carriers and technical devices, the collective management organisation shall conduct research on the actual use of these empty sound, image or text carriers and technical devices for reproduction of works and subject matter of related rights, and the results of which shall be taken into account in determining the amount of appropriate remuneration. The results of such research shall be made public on the website of the collective rights organisation.

(15) In the cases referred to in Article 149, paragraph (4) of this Act, the price for making available to the public and for the appropriate manner of reproduction of an artistic performance shall be set as a percentage of the revenue generated by a phonogram producer by commercialisation of an artistic performance via the Internet, for any artistic performance for which the rights are presumed to be managed through a collective management

organisation. The phonogram producer shall not be obliged to pay to a collective management organization a part of the price for an individual performance which is proportional to the share of the performer who concluded a contract with him referred to in Article 149, paragraph (1) of this Act, which would belong to that performer according to the rules on distribution of a collective management organisation. The phonogram producer shall pay the remuneration for such performer according to the concluded contract.

### ***Monitoring the Use of Subject matter of Protection***

#### Article 241

- (1) A collective management organisation may, in compliance with the authorisation of a right holder as referred to in Article 227 of this Act, monitor the use of the subject matter of protection for which it has authorisation for collective management of rights granted pursuant to the provisions of this Act.
- (2) Users of subject matter of protection shall provide a collective management organisation with information relevant for such management of rights and enable the inspection of relevant documentation.
- (3) At a request of collective management organisations, the State Inspectorate, a state administration body responsible for implementing the customs protection measures, and a state administration body responsible for police administrations shall provide assistance to the collective management organisations in exercising monitoring as referred to in paragraph (1) of this Article regarding the use of the subject matter of protection.
- (4) At a request of an author or another right holder, or a collective management organisation, the competent police administration or a police station shall prohibit a performance at which subject matter of protection are used, if the user does not have the authorisation of the author or another right holder, that is, of a collective management organisation.

## Chapter 5

### MANAGEMENT OF RIGHTS REVENUE

#### ***Collection and Use of Rights Revenue***

#### Article 242

- (1) A collective management organisation shall be diligent in the collection and management of rights revenue.
- (2) A collective management organisation shall keep separate in its accounts:
  - rights revenue and any income arising from the investment of rights revenue; and
  - any own assets it may have and income arising from such assets, from management fees or from other activities.
- (3) A collective management organisation shall not be permitted to use rights revenue or any income arising from the investment of rights revenue for purposes other than distribution to right holders, except where it is allowed to deduct or offset its management fees or where it is allowed in compliance with a decision taken in accordance with Article 230 paragraph (3) subparagraphs 5 and 6 of this Act.
- (4) The management cost is the amount that a collective management organisation, for the purpose of covering the costs of managing copyright or related rights, collects, deducts or compensates from the rights revenue or from any other income earned by investing rights revenue.

(5) Where a collective management organisation invests rights revenue or any income arising from the investment of rights revenue, it shall do so in the best interests of the right holder whose rights it represents, in accordance with the general investment and risk management policy with regard to rights revenue and to any income arising from the investment of rights revenue referred to in Article 230 paragraph (3) subparagraphs 5 and 7 of this Act and having regard to the following rules:

- where there is any potential conflict of interest, the collective management organisation shall ensure that the investment is made in the sole interest of the right holder whose rights it represents;
- the assets shall be invested in order to ensure the security, quality, liquidity and profitability of the portfolio as a whole; and
- the assets shall be properly distributed and diversified in order to avoid excessive reliance on any particular asset and accumulations of risks in the portfolio as a whole.

### ***Distribution of Rights Revenue***

#### Article 243

(1) The distribution of rights revenue to the right holders shall be generally carried out in accordance with the information on the use of the subject matter of protection.

(2) A user shall submit to collective rights management association complete information concerning the place and time of the use of a particular subject matter of protection for the reason of distribution of rights revenue, within a time limit stipulated in a contract on use. If such contractual provision does not exist, a user shall submit such information to a collective rights management association within 15 days from the date of the use.

(3) If distribution based on the information on the use is not possible, or if such distribution would obviously be uneconomical, the distribution may be carried out by the application of a method of sampling corresponding to the greatest extent to the actual use.

### ***General Policy on Distribution of Amounts Due to Right Holders***

#### Article 244

(1) A collective management organisation shall regularly, diligently and accurately distribute and pay amounts due to right holders, in accordance with the general policy on distribution referred to in Article 230 paragraph (3) subparagraph 3 of this Act.

(2) The general policy on distribution of amounts due to right holders referred to in Article 230 paragraph (3) subparagraph 3 of this Act shall contain in particular provisions concerning:

- subject matter of protection and right holders which the general policy on distribution of amounts due to right holders applies to;
- determination of a share of a particular right holder in collected rights revenue, which may stimulate the subject matter of protection of a particular value for culture and national creativity;
- determination of amounts to be paid after the deduction of cost incurred in managing of the right, the allocation for funds envisaged by this Act, the statute of the organisation or by international contracts on mutual representation of collective management organisations, and
- terms of accounting and payment of distributed amounts due to right holders.

(3) Contracts on distribution concluded between the right holders of the same work shall override the general policy on distribution of amounts due to right holders.

(4) A collective management organisation or its members who are entities representing right holders shall pay due amounts to right holders as soon as possible, but no later than nine months from the end of this financial year in which the rights revenue was collected, unless objective reasons relating in particular to reporting by users, identification of rights, right holders or matching of information on works and subject matter of related rights with right holders or other objective reasons prevent that deadline from being met.

(5) Where the due amounts cannot be distributed within the deadline set in paragraph (4) of this Article because the relevant right holders cannot be identified or located, the exception to that deadline referred to in paragraph (4) of this Article shall not apply, and those amounts shall be kept separate in the accounts of the collective management organisation.

(6) The collective management organisation shall take all necessary measures to identify and locate the right holders. At the latest three months upon expiry of the deadline set in paragraph (4) of this Article, the collective management organisation shall make available information on works and subject matter of related rights for which one or more right holders have not been identified or located to:

- the right holders that it represents or the entities representing right holders, who are members of the collective management organisation; and
- all collective management organisations with which it has concluded representation agreements.

(7) The information referred to in paragraph (6) of this Article shall include, where available:

- the title of the work or the subject matter of related rights;
- the name of the right holder;
- the name of the relevant publisher or producer; and
- any other relevant information available which could assist in identifying the right holder.

(8) The collective management organisation shall also verify the records referred to in Article 228 paragraph (7) of this Act and other available records. If the abovementioned measures fail to produce results, the collective management organisation shall make the information on the failure of identifying and locating the right holder available to the public at the latest one year upon expiry of the three-month period.

(9) Where the amounts due to right holders cannot be distributed after three years from the end of the financial year in which the collection of the rights revenue occurred, and provided that all necessary measures to identify and locate the right holder have been taken, those amounts shall be deemed non-distributable.

(10) The general assembly of members of a collective management organisation shall decide on the use of the non-distributable amounts in accordance with the policy referred to in Article 230 paragraph (3) subparagraph 4 of this Act, without prejudice to the right of right holders to claim due amounts in accordance with the statute of limitations of three years.

(11) General statement of account regarding distribution shall be established by a competent body of a collective management organisation, and audited and evaluated by an authorised auditor.

(12) A collective management organisation shall deliver its general statement of account regarding distribution referred to in paragraph (11) of this Article to the Office within 15 days upon receipt of the audit report.



***Management Fees and Other Deductions and  
Promotion of Creativity and Cultural Diversity***

Article 245

- (1) A collective management organisation shall provide the right holder with information on management fees and other deductions from the rights revenue and from any income arising from the investment of rights revenue, before obtaining his consent to its managing his rights.
- (2) Management fees shall not exceed the actual and justified costs incurred by managing the rights. Management fees shall be documented in compliance with the best accounting standards.
- (3) A collective management organisation may decide, in addition to management fees in total provided by paragraph (2) of this Article, to spend maximum 3% of the rights revenue in total on measures against piracy and counterfeiting and other measures intended to raise awareness of the value of copyright and related rights.
- (4) A collective management organisation shall provide for, in the powers of attorney for representation given by their members, and in international reciprocity agreements, allocations to the fund intended to enhance the respective artistic and cultural creativity of predominantly non-commercial nature and cultural diversity in the respective artistic and cultural fields. The revenues of the fund shall not be used for other purposes. Allocations to the aforementioned fund cannot exceed 10% of the rights revenue in total, unless it is a matter of the rights revenue collected from remunerations for reproduction for private use referred to in Articles 180 and 184 of this Act, in which case the allocations to the aforementioned fund cannot exceed 30% of the remunerations in total.
- (5) All deductions from the rights revenue to the funds prescribed by this Act or the statute of a collective management organisation shall be reasonable in relation to the services provided by the collective management organisation to right holders, including the services referred to in paragraph (6) of this Article, and shall be established on the basis of objective criteria.
- (6) Where a collective management organisation provides social, cultural or educational services funded through deductions from rights revenue or from any income arising from the investment of rights revenue, such services shall be provided on the basis of fair criteria, in particular as regards access to, and the extent of, those services.

***Distribution, Management Fees and Deductions under  
Representation Agreements***

Article 246

- (1) The collective management organisation shall regularly, diligently and accurately distribute and pay amounts due to other collective management organisations it represents under representation agreements.
- (2) A collective management organisation shall not make deductions, other than in respect of management fees, from the rights revenue derived from the rights it manages on the basis of a representation agreement, or from any income arising from the investment of that rights revenue, unless the other collective management organisation that is party to the representation agreement expressly consents to such deductions.
- (3) The collective management organisation shall carry out such distribution and payments to the other collective management organisation it represents under representation agreements as soon as possible but not later than nine months from the end of the financial year in which the rights revenue was collected, unless objective reasons relating in particular

to reporting by users, identification of rights, rightholders or matching of information on works and subject matter of related rights with right holders or other objective reasons prevent the collective management organisation from meeting that deadline.

(4) A collective management organisation or its members who are entities representing rightholders shall pay due amounts they received from another collective management organisation under representation agreement to rightholders as soon as possible but no later than six months from the end of this financial year in which the rights revenue was collected, unless objective reasons relating in particular to reporting by users, identification of rights, rightholders or matching of information on works and other subject matter of related rights with right holders or other objective reasons prevent that deadline from being met.

## **Chapter 6**

### **TRANSPARENCY AND REPORTING**

#### ***Information Provided to Right Holders on the Management of Their Rights***

##### Article 247

(1) A collective management organisation shall make available once a year to right holders to whom it has attributed rights revenue or made payments in the period to which the information relates, the following information:

- any contact details which the right holder has authorised the collective management organisation to use in order to identify and locate the right holder;
- the rights revenue attributed to the right holder;
- the amounts paid by the collective management organisation to the right holder per category of rights managed and per type of use;
- the period during which the use took place for which amounts were due to be attributed and paid to the right holder, unless objective reasons relating to reporting by users prevent the collective management organisation from doing so;
- deductions made in respect of management fees;
- deductions made for any purpose other than in respect of management fees, including those for the provision of any cultural, social and educational services;
- any rights revenue attributed to the right holder which is outstanding for any period.

(2) Where a collective management organisation has as members entities which are responsible for the distribution of rights revenue to right holders, the collective management organisation shall provide the information listed in paragraph (1) of this Article to those entities, if they do not have that information in their possession. In this case, these entities shall make this information available, not less than once a year, to right holders to whom they have attributed rights revenue or made payments in the period to which the information relates.

#### ***Information Provided to Other Collective Management Organisations on the Management of Rights under Representation Agreements***

##### Article 248

A collective management organisation shall make the following information available, once a year and by electronic means, to collective management organisations on whose behalf it manages rights under a representation agreement, for the period to which the information relates:

- the rights revenue attributed, the amounts paid by the collective management organisation per category of rights managed, and per type of use, for the rights it manages under the representation agreement, and any rights revenue attributed which is outstanding for any period;
- deductions made in respect of management fees;
- deductions made for any purpose other than in respect of management fees, including those for the provision of any cultural, social or educational services;
- information on any licences granted or refused with regard to subject matter of protection covered by the representation agreement, and
- resolutions adopted by the general assembly of members of the collective management organisation in so far as those resolutions are relevant to the management of the rights under the representation agreement.

***Information Provided to Rightholders,  
Other Collective Management Organisations and Users on Request***

Article 249

In response to a duly justified request by any rightholder, any other collective management organisation on whose behalf it manages rights under a representation agreement or any user, a collective management organisation shall make the following information available by electronic means and without undue delay:

- the subject matter of protection it represents, the rights it manages, directly or under representation agreements, and the territories covered; or
- where, due to the scope of activity of the collective management organisation, such subject matter of protection cannot be determined, the types of subject matter of protection it represents, the rights it manages and the territories covered.

***Disclosure of Information to the Public***

Article 250

A collective management organisation shall make public on its website and continuously update the following information:

- its statute;
- its membership terms and the terms of termination of authorisation to manage rights, if these are not included in the statute;
- standard licensing contracts;
- standard applicable tariffs, including discounts;
- the list of the persons referred to in Article 232 of this Act;
- its general policy on distribution of amounts due to right holders;
- its general policy on management fees;
- its general policy on deductions, other than in respect of management fees, from rights revenue and from any income arising from the investment of rights revenue, including deductions for the purposes of social, cultural and educational services;
- a list of the representation agreements it has entered into, and the names of the collective management organisations parties to these representation agreements;
- the general policy on the use of non-distributable amounts;
- the complaint handling and dispute resolution procedures available in accordance with Articles 262 to 264 of this Act.

### *Annual Transparency Report*

#### Article 251

(1) A collective management organisation shall draw up and make public an annual transparency report on its website, including the special report referred to in paragraph (4) of this Article, for each financial year within eight months following the end of that financial year. The annual transparency report published on the website shall remain available to the public on that website for five years.

(2) The annual transparency report shall contain the following information:

- financial statements comprising a balance-sheet or a statement of assets and liabilities, an income and expenditure account for the financial year and a cash-flow statement;
- a report on the activities in the financial year;
- information on refusals to grant a licence pursuant to Article 233 paragraph (2) of this Act;
- a description of the legal and governance structure of the collective management organisation;
- information on any entities directly or indirectly owned or controlled, wholly or in part, by the collective management organisation;
- information on the total amount of remuneration paid to the persons referred in Article 231 paragraph (3) and Article 232 of this Act in the financial year reported, and on other benefits granted to them;
- the financial information referred to in paragraph (3) of this Article; and
- a special report on the use of any amounts deducted for the purposes of social, cultural and educational services, containing the information referred to in paragraph (4) of this Article.

(3) The following financial information shall be provided in the annual transparency report:

1. financial information on rights revenue, per category of rights managed and per type of use, such as broadcasting, online, public performance, including information on the income arising from the investment of rights revenue and the use of such income, whether it is distributed to right holders or other collective management organisations, or otherwise used;
2. financial information on the cost of rights management and other services provided by the collective management organisation to right holders, with a comprehensive description of the following items:
  - a) all operating and financial costs, with a breakdown per category of rights managed and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs;
  - b) operating and financial costs, with a breakdown per category of rights managed and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs and only with regard to the management of rights, including management fees deducted from or offset against rights revenue or any income arising from the investment of rights revenue in accordance with Article 242 paragraph (3) and Article 245 paragraphs (1), (2) and (5) of this Act;
  - c) operating and financial costs with regard to services other than the management of rights, but including social, cultural and educational services;
  - d) resources used to cover costs of rights management;

- e) deductions made from rights revenues, with a breakdown per category of rights managed and per type of use and the purpose of the deduction, such as costs relating to the management of rights or to social, cultural or educational services; and
  - f) the percentages that the cost of the rights management and other services provided by the collective management organisation to right holders represents compared to the rights revenue in the relevant financial year, per category of rights managed, and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs;
3. financial information on amounts due to right holders, with a comprehensive description of the following items:
- a) the total amount attributed to right holders, with a breakdown per category of rights managed and type of use;
  - b) the total amount paid to rightholders, with a breakdown per category of rights managed and type of use;
  - c) the frequency of payments, with a breakdown per category of rights managed and per type of use;
  - d) the total amount collected but not yet attributed to right holders, with a breakdown per category of rights managed and type of use, and indicating the financial year in which those amounts were collected;
  - e) the total amount attributed to but not yet distributed to rightholders, with a breakdown per category of rights managed and type of use, and indicating the financial year in which those amounts were collected;
  - f) the reasons for the delay where a collective management organisation has not carried out the distribution and payments within the deadline set in Article 244 paragraph (4) of this Act;
  - g) the total non-distributable amounts, along with an explanation of the use to which those amounts have been put;
4. financial information on relationships with other collective management organisations, with a description of the following items:
- a) amounts received from and paid to other collective management organisations, with a breakdown per category of rights, per type of use and per organisation;
  - b) management fees and other deductions from the rights revenue due to other collective management organisations, with a breakdown per category of rights, per type of use and per organisation;
  - c) management fees and other deductions from the amounts paid by other collective management organisations, with a breakdown per category of rights, per type of use and per organisation; and
  - d) amounts distributed directly to right holders originating from other collective management organisations, with a breakdown per category of rights and per organisation.
- (4) A special report of the collective management organisation shall provide the following information on the use of the amounts deducted for the purposes of social, cultural and educational services:
- the amounts deducted for the purposes of social, cultural and educational services in the financial year, with a breakdown per type of purpose and, for each type of purpose, with a breakdown per category of rights managed and per type of use;
  - an explanation of the use of those amounts, with a breakdown per type of purpose including the costs of managing amounts deducted to fund social, cultural and

educational services and of the separate amounts used for social, cultural and educational services; and

- the amounts as referred in Article 245 paragraph (3) of this Act.

(5) The accounting information included in the annual transparency report shall be audited by one or more persons empowered by the Audit Act. The audit report, including any qualifications thereto, shall be reproduced in full in the annual transparency report. Accounting information to be audited shall comprise the financial statements referred to in paragraph (2) point a) of this Article, financial information referred to in paragraph (2) subitem 1 of this Article, and financial information referred to in paragraphs (3) and (4) of this Article.

## **Chapter 7**

### **MULTI-TERRITORIAL LICENSING OF ONLINE RIGHTS IN COPYRIGHT MUSICAL WORKS**

#### ***Multi-Territorial Licensing in the Internal Market of the European Union***

##### Article 252

(1) A collective management organisation with a residence or a place of establishment in the Republic of Croatia shall comply with the requirements of this Chapter of this Act when granting multi-territorial licences for online rights in copyright musical works within the European Union (hereinafter: multi-territorial licences).

(2) Online rights in copyright musical works are copyrights in musical works referred to in Articles 33 and 36 of this Act, including the right referred to in Article 46 of this Act, which need to be regulated when providing online services.

#### ***Capacity to Process Multi-Territorial Licences***

##### Article 253

(1) A collective management organisation which grants multi-territorial licences for online rights in copyright musical works shall have sufficient capacity to process electronically, in an efficient and transparent manner, data needed for the administration of such licences, including for the purposes of identifying the repertoire and monitoring its use, invoicing users, collecting rights revenue and distributing amounts due to rightholders.

(2) For the purposes of paragraph (1) of this Article, a collective management organisation shall comply with the following conditions:

- to have the ability to identify accurately the musical works, wholly or in part, which the collective management organisation is authorised to represent;
- to have the ability to identify accurately, wholly or in part, with respect to each relevant territory, the rights and their corresponding right holders;
- to make use of unique identifiers in order to identify rightholders and copyright musical works, taking into account, as far as possible, voluntary industry standards and practices developed at international or the European Union level;
- to make use of adequate means in order to identify and resolve in a timely and effective manner inconsistencies in data held by other collective management organisations granting multi-territorial licences for online rights in copyright musical works.

***Transparency of Multi-Territorial Repertoire Information***

Article 254

(1) A collective management organisation which grants multi-territorial licences for online rights in copyright musical works shall provide to online service providers, to rightholders whose rights it represents and to other collective management organisations, by electronic means, in response to a duly justified request, up-to-date information allowing the identification of the online music repertoire it represents. This shall include:

- the copyright musical works represented;
- the rights represented wholly or in part;
- the territories covered.

(2) Where necessary, the collective management organisation may take reasonable measures to protect the accuracy and integrity of the data, to control their reuse and to protect commercially sensitive information.

***Accuracy of Multi-Territorial Repertoire Information***

Article 255

(1) A collective management organisation which grants multi-territorial licences for online rights in copyright musical works shall have in place arrangements to enable right holders, other collective management organisations and online service providers to request a correction of the data referred to in Article 253 paragraph (2) and Article 254 of this Act, where such data, on the basis of reasonable evidence submitted with a request, prove to be inaccurate. Where the claims are sufficiently substantiated, the collective management organisation shall ensure that such data are corrected without undue delay.

(2) The collective management organisation shall provide right holders whose copyright musical works are included in its own music repertoire and rightholders who have entrusted the management of their online rights in musical works to it in accordance with Article 260 of this Act with the means of submitting to it in electronic form information concerning their copyright musical works, the share of their rights in those works and the territories in respect of which the right holders authorise that collective management organisation. When doing so, the collective management organisation and the right holders shall take into account, as far as possible, voluntary industry standards or practices regarding the exchange of data developed at international or Union level, allowing right holders to specify the musical work, wholly or in part, the online rights, wholly or in part, and the territories in respect of which they authorise a collective management organisation.

(3) Where a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in copyright musical works under Articles 258 and 259 of this Act, the mandated collective management organisation shall also apply provisions under paragraph (2) of this Article with respect to the right holders whose copyright musical works are included in the repertoire of the mandating collective management organisation, unless the collective management organisations agree otherwise.

***Accurate and Timely Reporting and Invoicing***

Article 256

(1) A collective management organisation which grants multi-territorial licences for online rights in copyright musical works shall monitor the use of online rights in musical works it represents, wholly or in part, by online service providers to which it has granted a multi-territorial licence for such use.

(2) The collective management organisation shall offer online service providers the possibility of reporting by electronic means the actual use of online rights in copyright musical works and online service providers shall accurately report the actual use of those works. The collective management organisation shall offer the use of a least one method of reporting which takes into account voluntary industry standards or practices developed at international or Union level for the electronic exchange of such data. The collective management organisation may refuse to accept reporting by the online service provider in a proprietary format if the organisation allows for reporting using an industry standard for the electronic exchange of data.

(3) The collective management organisation shall invoice the online service provider by electronic means. The collective management organisation shall offer the use of a least one method of reporting which takes into account voluntary industry standards or practices developed at international or Union level for the electronic exchange of such data. The invoice shall identify the copyright works and rights which are licensed, wholly or in part, on the basis of the data referred to in the list of conditions under Article 253 paragraph (2) of this Act and the corresponding actual uses, to the extent that this is possible on the basis of the information provided by the online service provider and the format used to provide that information. The online service provider may not refuse to accept the invoice because of its format if the collective management organisation is using an industry standard.

(4) The collective management organisation shall invoice the online service provider accurately and without delay after the actual use of the online rights in that copyright musical work is reported, except where this is not possible for reasons attributable to the online service provider.

(5) The collective management organisation shall have in place adequate arrangements enabling the online service provider to challenge the accuracy of the invoice, including when the online service provider receives invoices from one or more collective management organisations for the same online rights in the same musical work.

### *Accurate and Timely Payment to Right Holders*

#### Article 257

(1) A collective management organisation which grants multi-territorial licences for online rights in copyright musical works shall distribute amounts due to right holders accruing from such licences accurately and without delay after the actual use of the work is reported, except where this is not possible for reasons attributable to the online service provider.

(2) Together with each payment it makes under paragraph (1) of this Article, the collective management organisation shall provide the following information to the right holder:

- the period during which the uses took place for which amounts are due to right holders and the territories in which the uses took place;
- the amounts collected, deductions made and amounts distributed by the collective management organisation for each online right in any musical work which the right holder has authorised such collective management organisation, wholly or in part, to represent
- the rights revenue collected for such rightholder, deductions made, and amounts distributed in respect of each online service provider.

(3) Where a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in copyright musical works on its behalf and for its account under Articles 258 and 259 of this Act, mandated collective management organisation shall distribute the amounts referred to in paragraph (1) of this



Article accurately and within eight days, and shall provide the information referred to in paragraph (2) of this Article to the mandating collective management organisation. In this case, the mandating collective management organisation shall be responsible for the subsequent distribution of such amounts and the provision of such information to right holders, unless the collective management organisations agree otherwise.

***Agreements between Collective Management Organisations for  
Multi-Territorial Licensing***

Article 258

(1) Agreements between collective management organisations whereby a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in copyright musical works in its own music repertoire is of a non-exclusive nature. The mandated collective management organisation shall manage those online rights on a non-discriminatory basis.

(2) The mandating collective management organisation as referred to in paragraph (1) of this Article shall inform its members of the main terms of the agreement, including its duration and the costs of the services provided by the mandated collective management organisation.

(3) The mandated collective management organisation as referred to in paragraph (1) of this Article shall inform the mandating collective management organisation of the main terms according to which it grants licences for the online rights in copyright musical works in its own music repertoire, including the nature of the exploitation, all provisions which relate to or affect the licence fee, the duration of the licence, the accounting periods and the territories covered.

***Obligation to Represent Another  
Collective Management Organisation***

Article 259

(1) Where a collective management organisation which does not grant or offer to grant multi-territorial licences for the online rights in copyright musical works in its own repertoire requests another collective management organisation to enter into a representation agreement to represent those rights, the requested collective management organisation is required to agree to such request if it is already granting or offering to grant multi-territorial licences for the same category of online rights in copyright musical works in the repertoire of one or more other collective management organisations.

(2) The requested collective management organisation as referred to in paragraph (1) of this Article shall respond to the requesting collective management organisation in writing and without undue delay.

(3) The requested collective management organisation as referred to in paragraph (1) of this Article shall manage the represented repertoire of the requesting collective management organisation on the same conditions as those which it applies to the management of its own repertoire and include the represented repertoire of the requesting collective management organisation in all offers it addresses to online service providers.

(4) The management fee charged by the requested collective management organisation as referred to in paragraph (1) of this Article for the represented repertoire shall not exceed the costs reasonably incurred with providing that service.

(5) The requesting collective management organisation as referred to in paragraph (1) of this Article shall make available to the requested collective management organisation all

information relating to its own repertoire required for the provision of multi-territorial licences for online rights in copyright musical works. Where information is insufficient or provided in a form not appropriate to meet the requirements for the provision of multi-territorial licences for online rights in copyright musical works referred to in this Chapter of this Act, the requested collective management organisation as referred to in paragraph (1) of this Article shall be entitled to charge for the costs reasonably incurred in meeting such requirements or to exclude those works for which information is insufficient or cannot be used.

### *Access to Multi-Territorial Licenses*

#### Article 260

Where a collective management organisation does not grant or offer to grant multi-territorial licences for online rights in copyright musical works or does not authorise another collective management organisation to represent its repertoire for such purpose by 31 December 2017, right holders who have authorised that collective management organisation to represent their online rights in copyright musical works can withdraw that authorisation in relation to the grant of multi-territorial licenses for online rights and to leave the authorisation for representation of these rights in the territory of the Republic of Croatia (hereinafter: mono-territorial licensing), so as to grant multi-territorial licences for their online rights individually, through a specialised legal person or personally, or collectively, through another collective management organisation,.

### *Derogation for Online Rights in Copyright Music Works in Relation to Radio and Television Programmes*

#### Article 261

The requirements under this Chapter of this Act shall not apply to collective management organisations when they grant, on the basis of the voluntary aggregation of the required rights, in compliance with the competition rules under Articles 101 and 102 TFEU, a multi-territorial licence for the online rights in copyright musical works required by a broadcaster to communicate or make available to the public its radio or television programmes simultaneously with or after their initial broadcast as well as any online material, including previews, produced by or for the broadcaster which is ancillary to the initial broadcast of its radio or television programme.

## **Chapter 8**

### **ENFORCEMENT MEASURES**

#### *Complaints*

#### Article 262

(1) Collective management organisations shall lay down for their members, and for collective management organisations on whose behalf they manage rights under a representation agreement, effective and timely procedures for dealing with complaints, particularly in relation to authorisation to manage rights and termination or withdrawal of rights, membership terms, collection of amounts due to right holders, deductions and distributions.

(2) A collective management organisation shall respond in writing to complaints as referred to in paragraph (1) of this Article and in case of rejecting a complaint, it shall give reasons.

***Dispute Resolution between a  
Collective Management Organisation and Users***

Article 263

Disputes between a collective management organisation and a user concerning their relationship, and in particular licensing conditions or a breach of contract, can be submitted to an arbitration court with expertise in intellectual property law in compliance with arbitration regulations or to a competent court in compliance with civil procedure.

***Alternative Dispute Resolution concerning Multi-Territorial Licenses for  
Online Rights in Copyright Musical Works***

Article 264

(1) For the purposes of implementing the provisions under Chapter 7 of this part of this Act, the following disputes relating to a collective management organisation which grants multi-territorial licences for online rights in copyright musical works, with a residence or a place of establishment in the Republic of Croatia, can be submitted by the parties in dispute to an arbitration court in compliance with arbitration regulations:

- disputes with an actual or potential online service provider regarding the application of Articles 233, 254, 255 and 256 of this Act;
- disputes with one or more right holders regarding the application of Articles from 254 to 260 of this Act;
- disputes with another collective management organisations regarding the application of Articles from 254 to 259 of this Act.

(2) The parties in dispute as referred to in paragraph (1) of this Article may request the Council of Experts for the opinion on the subject matter of disagreement. The provision of the opinion shall be appropriately subject to the provisions as referred to in Article 235 paragraph (6) of this Act.

***Protection of Personal Data***

Article 265

The processing of personal data carried out within the framework of this part of this Act shall be subject to the application of the act providing for personal data protection.

**Chapter 9****SUPERVISION OF THE COLLECTIVE MANAGEMENT OF RIGHTS***Activities of the Office with Regard to the  
Collective Management of Rights*

## Article 266

- (1) The Office shall grant an authorisation referred to in Article 224 paragraph (1) of this Act to collective management organisations and an authorisation referred to in Article 225 paragraph (2) of this Act to independent management entities.
- (2) The Office shall keep the records of the collective management organisations and independent management entities that perform the activity of collective management of rights in the territory of the Republic of Croatia.
- (3) The Office conducts inspection of the work of collective management organisations and independent management entities in terms of performing the activity of collective management of rights in the territory of the Republic of Croatia, in compliance with this Act.
- (4) Where the Office receives a justified request from any person having legal interest therein or it becomes aware *ex officio* of the fact that a collective management organisation or an independent management entity with a residence or a place of establishment in the Republic of Croatia collectively manages rights in the territory of the Republic of Croatia without the authorisation as referred to in Article 224 paragraph (1), or Article 225 paragraph (2) of this Act, it shall request this collective management organisation, or an independent management entity to provide information and documentation in order to establish the said facts.
- (5) Where the Office establishes, on the basis of the actions conducted as referred to in paragraph (4) of this Article, that a collective management organisation or an independent management entity performs the activity of collective management of rights in the territory of the Republic of Croatia without the authorisation as referred to in Article 224 paragraph (1), or Article 225 paragraph (2) of this Act, it shall pass a decision on banning the operation of that collective management organisation or that independent management entity in the territory of the Republic of Croatia and it shall initiate misdemeanour proceedings for the commission of the misdemeanour referred to in Article 299 paragraph (1) item 1 of this Act.
- (6) Where the Office receives a justified request from any person having legal interest therein or it becomes aware *ex officio* of the fact that an independent management entity with a residence or a place of establishment in another Member State of the European Union collectively manages rights in the territory of the Republic of Croatia without meeting the requirements as referred to in Article 225 paragraph (3) of this Act, it shall request this independent management entity to provide information and documentation in order to establish these requirements and conduct other necessary actions, including the possibility to deliver all relevant information to the responsible authority of that Member State and attach the request to take appropriate actions and measures.
- (7) Where the Office establishes, on the basis of the actions conducted as referred to in paragraph (6) of this Article, that an independent management entity with a residence or a place of establishment in another Member State of the European Union collectively manages rights in the territory of the Republic of Croatia without meeting the requirements as referred to in Article 225 paragraph (3) of this Act, it shall pass a decision on banning the operation of that independent management entity in the territory of the Republic of Croatia and it shall notify the responsible authority in the Member State of the European Union where this independent management entity has its residence or place of establishment and that

independent management entity and it shall initiate misdemeanour proceedings for the commission of the misdemeanour referred to in Article 299 paragraph (1) item 3 or item 4 of this Act.

(8) The decision as referred to in paragraphs (5) and (7) of this Article cannot be appealed, but it can be submitted to an administrative dispute resolution.

(9) The Administrative Court in Zagreb has exclusive jurisdiction over administrative disputes under this Act.

(10) The official correspondence between the Office and collective management organisations or independent management entities collectively managing or intending to collectively manage copyright and related rights in the territory of the Republic of Croatia shall be in Croatian and Latin transcription.

(11) Decisions as referred to in Article 224 paragraph (1), Article 225 paragraph (2) of this Act and paragraphs (5) and (7) of this Article shall be published in the Official Gazette of the Office and on the Office's website.

### *Inspection Authorisations*

#### Article 267

(1) When conducting the inspection referred to in Article 266 paragraph (3) of this Act, a civil servant of the Office responsible for carrying out inspection procedure (hereinafter: the inspector) shall be authorised by a collective management organisation or an independent management entity to request insight in the documents and business records regarding the activity of collective management of rights. The Office may also request the necessary documentation and statements in writing.

(2) Inspection of the operation of collective management organisations and independent management entities performing the activity of collective management of rights in the territory of the Republic of Croatia according to the authorisation referred to in Article 224 paragraph (1) or Article 225 paragraph (2) of this Act can be:

1. regular inspection, conducted periodically, as a rule once a year;
2. special inspection, conducted if the Office upon a petition or a notification or in any other way becomes aware of potential irregularities in the operation of a collective management organisation or an independent management entity.

(3) If during the inspection the inspector finds that a collective management organisation or an independent management entity with a residence or a place of establishment in the Republic of Croatia performs the activity of collective management of rights contrary to the issued decision referred to in Article 224 paragraph (1) or Article 225 paragraph (2) of this Act or contrary to the provisions of this Act, he shall order by a decision such deficiencies and irregularities to be eliminated within a certain time limit.

(4) If the deficiencies and irregularities are not eliminated within the prescribed time limit as referred to in paragraph (3) of this Article and if a collective management organisation or an independent management entity with a residence or a place of establishment in the Republic of Croatia still does not meet the prescribed requirements for performing the activity of collective management of rights or if it seriously and repeatedly violates the provisions of this Act, the inspector shall pass a decision on revoking the authorisation referred to in Article 224 paragraph (1) or Article 225 paragraph (2) of this Act. In this case, the Office shall initiate misdemeanour proceedings for the commission of the misdemeanour referred to in Article 299 paragraph (1) item 2 of this Act.

(5) The Office shall be authorised to carry out special inspection referred to in paragraph (2) item 2 of this Article over an independent management entity having its residence or place of establishment in another Member State of the European Union and which, in accordance

with Article 225, paragraph (3) of this Act, has notified the Office on its intention to collectively manage rights in the territory of the Republic of Croatia. If the inspector in carrying out such special inspection finds that the independent management entity performs collective management of rights contrary to the provisions of this Act, he shall order by a decision the elimination of identified deficiencies and irregularities within a specified time limit and deliver the decision to that independent management entity through a responsible authority in the Member State of the European Union in which that independent management entity has its residence or place of establishment.

(6) If the deficiencies and irregularities are not eliminated within the specified time limit as referred to in paragraph (5) of this Article, the inspector shall pass a decision on banning the operation of that independent management entity in the territory of the Republic of Croatia and it shall deliver the decision to that independent management entity through the responsible authority in the Member State of the European Union where this independent management entity has its residence or place of establishment. In this case, the Office shall initiate misdemeanour proceedings for the commission of the misdemeanour referred to in Article 299 paragraph (1) item 5 of this Act.

(7) The decision as referred to in paragraphs (4) and (6) of this Article cannot be appealed, but it can be submitted to an administrative dispute resolution.

(8) Decisions as referred to in paragraphs (4) and (6) of this Article shall be published in the Official Gazette of the Office and on the Office's website.

(9) Where a collective management organisation is registered as an association, the inspector shall inform the administration office of the county or the City of Zagreb keeping the registration records of associations about the measures as referred to in paragraphs (3) and (4) of this Article undertaken against it.

(10) The inspector has the right to participate in the general assembly of a collective management organisation, with no voting right. The collective management organisation shall timely notify the Office about the place and time of the general assembly to be held.

### ***Activities in Relation to the Council of Experts***

#### Article 268

The Office shall perform professional, technical and administrative activities related to the establishment and operation of the Council of Experts.

### ***Activities in Relation to the Use of Out-of-Commerce Works and Subject matter of Related Rights***

#### Article 269

The Office shall be authorised *ex officio* or at the request of an interested party to implement additional appropriate information measures on out-of-commerce copyright works and subject matter of related rights, in order to promote the limitations referred to in Article 192 of this Act and collective management of rights in relation to those works in accordance with the provisions of this Act, as well as to conduct dialogues with right holders, cultural heritage institutions and collective management organisations for that purpose.

***Obligations of Providing Official Information to the  
European Commission***

Article 270

- (1) The Office shall inform the European Commission about the presumption of representation pursuant to Article 224, paragraph (6) of this Act, the scope of that presumption, purposes and types of authorisations that may be issued by collective management organisations, contact details of collective management organisations, ways in which information on granting approval for the use of the repertoire of collective management organisations can be obtained and on the possibilities of right holders to explicitly inform the collective management organisation in writing not to manage their rights, in accordance with Article 224, paragraph (6) of this Act.
- (2) The Office shall inform the European Commission about the possibility of the Council of Experts to mediate with regard to concluding a contract for the purpose of making audiovisual works available to the public within the services of video-on-demand referred to in Article 239 paragraph (1) subparagraph 2 of this Act and about contact information of the Council of Experts.
- (3) The Office shall inform the European Commission about any proposal of the Government of the Republic of Croatia about prescribing new related rights, including the main reasons for their introduction and the anticipated duration of protection.

***Cooperation with Competent Authorities in Other  
Member States of the European Union***

Article 271

- (1) The Office shall provide a reply to the request for delivery of information on the activities of collective management organisations with a residence or place of establishment in the Republic of Croatia, received from the authorities of a Member State of the European Union designated by a corresponding regulation of that State to supervise the operation of collective management organisations. The Office shall not reply to insufficiently justified requests.
- (2) Where the Office considers that a collective management organisation or an independent management entity with a residence or place of establishment in another Member State of the European Union, performing the activities of collective management of rights in the Republic of Croatia, may not be complying with the regulations of that Member State governing collective management of rights, it may transmit all relevant information to the competent authority of the Member State designated by a corresponding regulation of that State to supervise the operation of collective management organisations. Where appropriate, the Office may accompany the information by a request to that authority to take appropriate measures within its competence.
- (3) Where the Office received the request referred to in paragraph (2) of this Article from the authority designated by a corresponding regulation of a Member State of the European Union to supervise the operation of collective management organisations, it shall provide a reply within three months upon receipt of the request.
- (4) The request as referred to in paragraph (2) of this Article may also be referred by the Office to the expert group composed of representatives of the competent authorities of the Member States of the European Union, chaired by a representative of the European Commission.
- (5) The Office shall provide a reply within an appropriate time limit to all the requests of the European Commission and cooperate with the European Commission for the development

of multi-territorial licensing of online rights in copyright musical works and fostering a regular exchange of all the relevant information between the European Commission and the Office, providing the European Commission with reports on the situation and development of issuing multi-territorial licenses in the Republic of Croatia by 10 October 2017, regular reporting on changes to the list of the collective management organisations with a residence or place of establishment in the Republic of Croatia and for the needs of the tasks to be performed by the expert group as referred to in paragraph 4 of this Article.

***Effective application of the Provisions on Independent Management Entities***

Article 272

The provisions referred to in Article 235 paragraph (1), Article 244, paragraphs (1), (4), (11) and (12), Article 245 paragraph (1) Article 246 paragraphs (1), (3) and (4), Articles from 247 to 249, Article 250 subparagraphs 1, 2, 3, 4, 6, 7, and 8, Articles 251, 265 and 271 of this Act shall apply accordingly to independent management entities.

**PART SIX**

**PROTECTION OF RIGHTS IN THE CASE OF INFRINGEMENT**

***Right to Protection***

Article 273

- (1) The holder of a copyright or related right under this Act, which has been unlawfully infringed, shall be entitled to protection of such right.
- (2) Unless otherwise provided by this Act, the right to protection referred to in paragraph (1) of this Article shall entitle its holder to claim from the person who has infringed his right or from his general successor to desist from acts infringing such right, and further omission of such and the like acts (hereinafter: cease of disturbance), remedy of damages (hereinafter: compensation for damages), payment of compensation for unauthorised use, payment of penalty provided by law, return or compensation of all the benefits acquired unjustly by infringements of rights (hereinafter: return of unjustly acquired benefits), establishment of the committed infringement and the publication of the valid judgment by which the court has even partially complied with the claim for the protection of the right under this Act.
- (3) In addition to the original right holder under this Act, entitled to adequate protection shall also be the persons who have acquired a right derived from a copyright or related right on the basis of a legal transaction, and in compliance with the contents and nature of such derived right.
- (4) The right to protection shall pass on to heirs.
- (5) Where there are several holders of the same right under this Act, each of them is entitled to the protection of his right against other holders.
- (6) The provisions laid down in this Article shall also apply *mutatis mutandis* where there is a likelihood of infringement of the rights under this Act.
- (7) Creations resulting from the infringement of rights under this Act shall not enjoy protection provided by this Act.



### ***Solidarity***

#### Article 274

- (1) Where a right under this Act has been infringed, each of the right holders of the same right may claim protection of the infringed right against third persons as if he is the only right holder, unless otherwise provided by this Act.
- (2) Each of the right holders of the same right under this Act may claim the furnishing of a complete file infringing the right under this Act from a third person only according to obligatory rules on undivided obligations.
- (3) When the infringer under this Act meets the demands of one of the right holders of the same right, his liability towards the other right holders of the same right also terminates.
- (4) In case of a pending court proceeding, the right holders of the same right under this Act shall be considered to be a single party in such proceeding.
- (5) If several persons have jointly infringed any of the rights under this Act, their liability shall be joint and several.

### ***Protection of Rights Managed by a Collective Management Organisation and Evidence of the Infringement Thereof***

#### Article 275

- (1) Collective management organisations shall be entitled to initiate and carry out in their own name court and administrative proceedings for the protection of such rights under this Act which they have been granted authorisation to manage collectively.
- (2) Where the collective management organisation proves an infringement of the rights which it is authorised under this Act to manage collectively, the infringement of the rights of individual right holders managed collectively shall not be necessarily established.

### ***Protection of Technical Measures***

#### Article 276

- (1) The circumvention of effective technical measures designed to protect the right provided by this Act shall represent the infringement of such right, unless otherwise provided by this Act.
- (2) The circumvention of technical measures shall mean manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of technology, computer programs, devices, products or components, or the provision of services:
  - which are promoted, advertised or marketed for the purpose of circumvention of technical measures or which have a significant commercial purpose or use limited to circumvent technical measures;
  - which are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technical measures.
- (3) A request for protection of technical measures or a request for protection of copyright and related rights due to circumvention of technical measures may be filed against a person who knew or had reasonable grounds to know that he was circumventing or enabling the circumvention of technical measures. It shall be considered that the person who acts in the manner described in paragraph (2) of this Article has reasonable grounds to know that he is circumventing or enabling the circumvention of technical measures.

- (4) Technical measures shall mean any technology, computer programme, device, product or component thereof that in the normal course of its operation is designed to prevent or restrict acts, which are not authorised by the right holder.
- (5) The technical measures shall be considered effective where the use of copyright works or subject matter of related rights is restricted by the right holders through the application of an access control or a protection process, such as encryption, scrambling or other alteration or a copy control mechanism, which achieves the protection objective.
- (6) The provisions of this Article shall not apply to computer programmes.

### ***Protection of Rights-Management Information***

#### Article 277

- (1) The rights under this Act shall be also infringed by a person who without authorisation: removes or alters any electronic right-management information, produces, distributes, imports for the purpose of putting them on the market, broadcasts, communicates to the public or makes available to the public copyright works or subject matter of related rights from which the electronic right-management information has been removed or altered without the authorisation of a right holder, if he knows or has reasonable grounds to know that he thus causes, enables, facilitates or conceals the infringements of the rights under this Act.
- (2) Right-management information shall mean any information provided by the right holder identifying a subject matter of protection, the right holder, the terms and conditions for use of the subject matter of protection, and their relevant numbers and codes representing such information, where they are indicated on a copy of a copyright work or subject matter of related rights or when they appear in connection with their communication to the public.

### ***Special Measures for the Protection of Computer Programmes***

#### Article 278

- (1) Infringements of a copyright in a computer programme shall constitute:
- any act of distribution of a copy of a computer programme, knowing, or having reason to believe, that it is an infringing copy of a computer programme under this Act;
  - the possession, for commercial purposes, of a copy of a computer programme, knowing, or having reason to believe, that it is an infringing copy of a computer programme under this Act;
  - any act of distribution, or the possession for commercial purposes, of any means the sole intended purpose of which is to facilitate the unauthorised removal or circumvention of a technical device serving as protection of a computer programme;
  - other infringing acts.
- (2) The holder of right in a computer programme may demand protection of a computer programme in accordance with the provisions of this Chapter of this Act.
- (3) The provisions of this Article shall be without prejudice to the application of the Act governing the protection of inventions by patents, the Act governing the protection of trademarks, the Act governing unfair competition, the Act governing the protection of undisclosed commercially sensitive information, the Act governing the protection semiconductor products and the Act governing civil obligations.

### ***Claim for Cessation of Infringement***

#### Article 279

- (1) A right holder under this Act whose right has been infringed may claim the cessation and the prohibition of such or similar future infringements.
- (2) To exercise his right referred to in paragraph (1) of this Article, it shall be sufficient that the right holder invokes it, and proves that the defendant disturbs him. If the defendant claims that he has the right to undertake the actions that disturb the right holder, he shall prove it.

### ***Claim for Compensation of Damages***

#### Article 280

If the infringement of the right under this Act resulted with damages, the right holder is entitled to claim compensation for damages, in accordance with the general rules on compensation for damages.

### ***Claim for Compensation for Unauthorised Use***

#### Article 281

- (1) If the unauthorised use of a copyright work or a subject matter of related right has infringed the right of a right holder under this Act, the right holder or a collective management organisation managing respective rights may claim price which is usually obtained for such use or price prescribed by the tariffs referred to in Article 235 paragraph (2) of this Act.
- (2) The right which is managed collectively shall be considered infringed by unauthorised use where the copyright work or the subject matter of related right are used without a contract or without the authorisation of a collective management organisation or where a contract or an authorisation are not valid.

### ***Claim for Benefits Acquired by Unauthorised Use***

#### Article 282

If the unlawful use of any rights under this Act resulted in a benefit, the right holder shall be entitled to claim the return or compensation of all benefits thus acquired, in accordance with the general rules on unjustified acquisition.

### ***Claim for Publication of Court Decision***

#### Article 283

- (1) A right holder whose right under this Act has been infringed, shall be entitled to claim that a valid court decision, complying even partially with the claim for the protection of such right, be published in public media at the infringer's expense.
- (2) The court shall, at the plaintiff's proposal, decide in what public medium the decision shall be published and whether the decision would be published entirely or partially.
- (3) If the court decides that only a part of its decision shall be published, it shall be at least a sentence, and the part of the decision indicating the kind of the infringement and the infringer of the respective right.

***Claim for Destruction, Alteration or Delivery of Copies Resulting from Infringement and Objects by Means of Which Infringement Is Committed***

Article 284

- (1) The holder whose exclusive right under this Act has been infringed is entitled to claim the destruction or alteration of all the unlawfully made copies or such copies put on the market or intended to be put on the market.
- (2) Instead of the measure referred to in paragraph (1) of this Article, the right holder whose right has been infringed is entitled to claim that the infringer who is in possession of the copies referred to in paragraph (1) of this Article or is their owner, deliver such copies against compensation which shall not exceed the costs of the manufacture thereof.
- (3) The provisions of paragraphs (1) and (2) of this Article shall apply to architectural works only where there is a specially justified reason for the destruction or delivery thereof.
- (4) If the measures referred to in paragraphs (1), (2) and (3) of this Article are in a certain case disproportional with the nature and intensity of the infringement, and the infringement may be repaired otherwise, the court may, within limits of the claim, order other necessary measures for such case. In such case, the right holder is entitled at least to remuneration in the amount not lesser than he would obtain for the authorised use of the respective right.
- (5) The measures referred to in paragraphs (1) and (2) of this Article shall not apply to separable parts of copies, the manufacture and putting on the market of which are not unlawful.
- (6) The provisions of this Article shall apply *mutatis mutandis* also to the objects, which are used in or intended for the manufacture of copies infringing the rights under this Act or which are exclusively or predominantly intended for that purpose.
- (7) The provisions of this Article shall not apply if destruction of the objects referred to in paragraph (6) of this Article would cause greater damage than the damage caused by the infringement of the rights under this Act, unless it concerns the objects which are exclusively or predominantly intended for the infringement of the rights.
- (8) The claims referred to in this Article in respect of third fair persons shall be subject to statute of limitations within three years following the date on which the right holder learned about the unlawful manufacture of the objects, or their putting on the market, or that they are intended for putting on the market, and not later than within five years as from the unlawful manufacture or putting on the market thereof.

***Claim in the Case of Infringement of the Right Comprising the Indication of the Author and Performer***

Article 285

- (1) In addition to other claims envisaged by this Act, the author and the performer, whose name, pseudonym or other artist's mark, is not indicated with the use of his copyright work or his performance, or is indicated incorrectly or insufficiently, may claim from persons using the work or performance, to indicate them subsequently and correctly as the author or the performer.
- (2) The provisions of paragraph (1) of this Article shall apply *mutatis mutandis* where, contrary to the prohibition, the author or the performer is indicated with the use of the work or with the use of the performance.
- (3) The author or the performer shall not be entitled to claims referred to in this Article if the work or the performance is used with their authorisation, and if that use is such that it prevents the indication of the author or the performer.

### ***Penalty***

#### Article 286

- (1) The person whose right under this Act have been infringed intentionally or by gross negligence, is entitled to claim payment of up to a double amount of remuneration (hereinafter: penalty) which is contractually agreed upon or if not contractually agreed upon, of the corresponding regular remuneration for such use from the person who infringed his right.
- (2) In the case referred to in paragraph (1) of this Article it may not be proven that the damage did not occur.
- (3) In case that the actual damage exceeds the amount of penalty referred to in paragraph (1) of this Article, the right holder has a right to claim the difference to full actual damages.

### ***Statute of Limitations***

#### Article 287

- (1) The right to protection of rights under this Act shall not be subject to the statute of limitations, unless otherwise provided by this Act.
- (2) The claims under this Act, which are by their nature obligatory, and for which special time limit as to statute of limitations is not provided, shall be subject to statute of limitations according to the general rules to that effect.

### ***Provisional Measures due to the Infringement of Rights***

#### Article 288

- (1) Upon the request of the right holder who makes it likely that his right under this Act has been infringed or threatened to be infringed, the court may order any provisional measure comprising the termination or prevention of the infringement, such as:
- order the opposing party to cease or desist from, respectively, the acts infringing the right conferred; the court may also issue such order against an intermediary whose services are being used by a third party to infringe the right;
  - order the seizure or removal from the market of the goods unlawfully infringing the right conferred.
- (2) Upon the request of the right holder who makes it likely that his right under this Act has been infringed on a commercial scale for the purpose of acquiring commercial or economic benefit, and that such infringement has threatened to cause him irreparable damage, the court may, in addition to the provisional measures referred to in paragraph (1) of this Article, order the seizure of the movable and immovable property of the opposing party, not directly related to the infringement, including the blocking of his bank accounts and other assets.
- (3) For the purpose of ordering and enforcing the provisional measure referred to in paragraph (2) of this Article, the court may require from the opposing party or other relevant persons disposing with it, the communication of the banking, financial and other economic information, or the access to other relevant information and documents. The court shall ensure the protection of confidentiality of such information, and prohibit any misuse thereof.
- (4) The provisional measure referred to in paragraph (1) of this Article may be ordered without informing the opposing party thereof if the applicant for measures makes it likely that otherwise the provisional measure would not be effective, or that irreparable damage is threatened to occur.

(5) The provisional measure referred to in paragraph (2) of this Article may be ordered without informing the opposing party thereof if the applicant for measures makes it likely that otherwise the provisional measure would not be effective, or that, taking into consideration a very serious circumstances of the infringement, this would be necessary.

(6) If a provisional measure is ordered without informing the opposing party thereof, the court shall communicate a decision on the provisional measure to the opposing party, promptly upon its enforcement.

(7) In the decision ordering a provisional measure, the court shall specify the duration of such measure, and, if the measure has been ordered before the institution of a legal action, the period, within which the applicant for measures shall institute a legal action to justify the measure, which shall not be less than 20 working days and not more than 31 calendar days, from the communication of the decision to the applicant for measures, whichever expires later.

(8) The provisions of the Execution Act shall apply to matters, not regulated by this Article.

(9) The provisions of this Article shall be without prejudice to the possibility to order provisional measures pursuant to other provisions of this Act, and the provisions of the Execution Act and insurance.

### ***Provisional Measures Comprising the Preservation of Evidence***

#### Article 289

(1) Upon the request of the right holder who makes it likely that his right under this Act has been infringed or threatened to be infringed, the court may order a provisional measure comprising the preservation of evidence.

(2) By the provisional measure referred to in paragraph (1) of this Article, the court may order:

- preparation of a detailed description of the goods made likely to infringe a right, with or without taking of samples;
- seizure of the goods made likely to infringe a right;
- seizure of the materials and implements used in the production and distribution of the goods made likely to infringe a right and the documentation relating thereto;
- other measures comprising the preservation of evidence.

(3) The provisional measure referred to in this Article may be ordered even without informing the opposing party thereof, if the applicant for measures makes it likely that there is a risk of evidence being destroyed or irreparable damage of incurring.

(4) If a provisional measure is ordered without informing the opposing party thereof, the court shall communicate a decision on the provisional measure to the opposing party, promptly upon its enforcement.

(5) In the decision ordering a provisional measure, the court shall specify the duration of the measure, and, if the measure has been ordered before the institution of a legal action, the period, within which the applicant for measures shall institute a legal action to justify the measure, which shall not be less than 20 working days and not more than 31 calendar days, from the date of communication of the decision to the applicant for measures, whichever expires later.

(6) The provisions of the Execution Act shall apply to the provisional measures referred to in this Article, including the provisions of the Act governing the protection of confidential information in the insurance procedure.

(7) The provisions of this Article shall be without prejudice to the possibility of the court to order provisional measures comprising the preservation of evidence pursuant to the provisions of the Act on Civil Proceedings.

### ***Taking of Evidence in the Course of the Civil Proceedings***

#### Article 290

- (1) Where a party to the civil proceedings for the protection of rights under this Act invokes evidence claiming that it lies with the opposing party or under its control, the court shall invite the opposing party to present such evidence within a specified time limit.
- (2) Where the right holder as a plaintiff in a legal action claims that the infringement of the right conferred under this Act has been committed on a commercial scale for the purpose of acquiring commercial or economic benefit, and has made it likely during the proceedings, and where he invokes in the proceedings, banking, financial or similar economic documents, papers or similar evidence, claiming that they lie with the opposing party or under its control, the court shall invite the opposing party to present such evidence within a specified time limit.
- (3) Where the party, which is invited to present evidence, denies that the evidence lies with it or under its control, the court may take evidence to establish such fact.
- (4) The provisions of the Act on Civil Proceedings relating to the right of refusal to present evidence as a witness and the Act governing civil obligations with regard to the protection of confidential information shall apply *mutatis mutandis* to the right of the party to refuse to present evidence.
- (5) The court shall, taking into consideration all the circumstances of the case, decide at its own discretion, on the importance of the fact that the party having the evidence refuses to comply with the court's decision ordering it to present evidence, or denies, contrary to the court's opinion, that the evidence lies with it.
- (6) The decision of the court referred to in paragraphs (1) and (2) cannot be appealed.

### ***Expeditious Proceedings and Application of the Provisions of Other Acts***

#### Article 291

- (1) A procedure concerning the infringement of the rights conferred under this Act shall be expeditious.
- (2) The provisions of the Act on Civil Proceedings, and the Execution Act, respectively, shall apply to the procedures concerning the infringement of the rights conferred under this Act.

### ***Customs Measures***

#### Article 292

On a request of the right holder who makes it likely that the import, export, or crossing of the border line of certain goods would infringe the rights under this Act, the customs authorities shall take appropriate measures in accordance with special customs regulations regarding the procedure in respect of goods infringing the intellectual property rights.

### *Claim for Provision of Information*

#### Article 293

- (1) The right holder who has instituted civil proceedings for the protection of the rights under this Act may claim the provision of information on the origin and distribution channels of the goods or services infringing his right.
- (2) The claim referred to in Article 1 may be made in the form of a legal action or a provisional measure against:
- a person who has been sued in the civil proceedings referred to in paragraph (1) of this Article;
  - a person who is, within his economic activities, in possession of the goods suspected of infringing the right;
  - a person who provides, within his economic activities, services suspected of infringing the right;
  - persons who provide, within their economic activities, services used in the activities suspected of infringing the right;
  - a person who is indicated by any of the mentioned persons as being involved in the manufacture or distribution of the goods or the provision of the services suspected of infringing the right.
- (3) The claim referred to in paragraph (1) of this Article may also be included in a gradual legal action as the first claim, provided that a person acting as a counter party to the defendant is also included in the main claim.
- (4) The claim for information on the origin of the goods and distribution channels of the goods and services referred to in paragraph (1) of this Article shall include:
- information on the names and addresses of the producers, distributors, suppliers and other previous holders of the goods and providers of the services, respectively, as well as the intended wholesalers and retailers;
  - information on the quantities produced, delivered, received or ordered, as well as the price obtained for the goods or services concerned;
  - other information.
- (5) The person required to provide the information referred to in this Article may refuse to provide such information on the same grounds as those allowing the refusal to present evidence as a witness pursuant to the provisions of the Act on Civil Proceedings. If the person concerned refuses to provide information without justified reasons, he shall be responsible for the damage incurred to the right holder.
- (6) The provisions of this Article shall be without prejudice to the provisions on the manner of use of confidential information in civil and criminal proceedings, the provisions regulating the responsibility for misuse of the right to acquire information, and the provisions regulating the processing and protection of personal data and confidentiality of data source.
- (7) The provisions of this Article shall be without prejudice to the provisions of 289 and 290 of this Act.



## PART SEVEN

### SUPERVISION OF LAW ENFORCEMENT AND MISDEMEANOURS

#### *Supervision of the Enforcement of this Act*

##### Article 294

Inspection supervision of the enforcement of this Act shall be carried out by inspectors and other authorised civil servants in accordance with special regulations governing the competencies for performing inspection activities in the field of intellectual property rights.

#### *Administrative Supervision*

##### Article 295

Administrative supervision of the enforcement of this Act and the regulations adopted on the basis thereof shall be carried out by the Ministry responsible for the field of copyright and related rights.

#### *Infringement of Copyright and Related Rights*

##### Article 296

- (1) Any legal entity shall be punished for a misdemeanour by a fine amounting from HRK 5,000.00 up to 50,000.00, if it:
1. without the authorisation of the author discloses for the first time a copyright work (Article 27 paragraph (1));
  2. without the authorisation of the author prior to disclosure reveals to the public the content or description of the copyright work (Article 27 paragraph (2));
  3. uses the work publicly without indication of the authorship, unless the author has declared in a written form that he does not want to be indicated, or if certain use is such that prevents the indication of the authorship (Article 28 paragraph (2));
  4. without the authorisation of the author distorts, mutilates or otherwise modifies a copyright work distorts, mutilates or otherwise modifies a copyright work in its non-material form (Article 29 paragraph (1));
  5. uses the work publicly in a manner that is jeopardising or would jeopardise the author's honour or reputation (Article 30);
  6. without the authorisation of the author or other copyright holder, or a collective management organisation reproduces a copyright work for further distribution (Article 32 subparagraphs 1 and 2, Article 33 paragraph (1) and Article 34 paragraph (1));
  7. as a producer of empty sound, image or text carriers or a producer of audio and visual recording devices or a producer of photocopying devices or an importer of empty sound, image or text carriers or an importer of audio of visual recording devices or an importer of photocopying devices, fails to pay an equitable remuneration for reproduction of a copyright work where it may be reproduced without the authorisation of the author for private use (Article 183 paragraph (2) and Article 184 paragraph (1));
  8. as a provider of photocopying services with payment, fails to pay an equitable remuneration for reproduction of a copyright work where it may be reproduced without the authorisation of the author by photocopying for private use (Article 183 paragraph (3));

9. without the authorisation of the author or other copyright holder, or a collective management organisation distributes, except by renting, a copyright work (Article 32 subparagraph 2 and Article 34 paragraph (1));
10. without the authorisation of the author or other copyright holder, or a collective management organisation rents a copyright work (Article 32 subparagraph 2 and Article 34 paragraphs (1) and (2));
11. fails to pay an equitable remuneration to a collective management organisation for renting a copyright work which the author cannot waive, where he transferred his right of renting to a phonogram producer or an audiovisual producer (Article 34 paragraphs (1), (2) and (6));
12. without the authorisation of the author or other copyright holder, or a collective management organisation stores copies of a copyright work for their distribution (Article 32 subparagraph 2 and Article 34 paragraph (1));
13. without the authorisation of the author or other copyright holder, or a collective management organisation undertakes other acts for the purpose of distribution of copies of a copyright work (Article 32 subparagraph 2 and Article 34 paragraph (1));
14. fails to pay a remuneration for public lending of a copyright work if an original or copies of a copyright work, in respect of which further distribution is permitted, by mediation of public libraries are given for use in a limited period, without earning a direct or indirect economic or commercial benefit (Article 34 paragraphs (3) and (7));
15. as a professional art dealer, except for an art gallery in case when it acquires an original of a fine art work directly from the author in the period of less than three years before its resale and unless a resale price of the work exceeds an equivalent of Euro 10,000.00 in HRK, fails to pay an equitable share from a sale price achieved with any resale of that original following its first alienation by the author (remuneration for the resale right) with reselling a fine art work (Article 35 paragraph (1));
16. without the authorisation of the author or other copyright holder, or a collective management organisation communicates a copyright work to the public in any manner (Article 32 subparagraph 3 and Article 36);
17. without the authorisation of the author or other copyright holder, or a collective management organisation remakes a copyright work (Article 32 subparagraph 4 and Article 54);
18. distributes a copy of a computer programme knowing or having reasons to believe that it is the infringing copy (Article 278 paragraph (1) subparagraph 1);
19. possesses, for commercial purposes, a copy of a computer programme knowing or having reasons to believe that it is the infringing copy (Article 278 paragraph (1) subparagraph 2);
20. distributes, for commercial purposes, any means the sole intended purpose of which is to facilitate unauthorised removal or circumvention of a technical device for the protection of a computer programme (Article 278 paragraph (1) subparagraph 3);
21. possesses, for commercial purposes, any means the sole intended purpose of which is to facilitate unauthorised removal or circumvention of a technical device for the protection of a computer programme (Article 278 paragraph (1) subparagraph 3);
22. without indication of a performer, unless the performer has declared in a written form that he does not want to be indicated, or if certain public use prevents indication of a performer, publicly uses his artistic performance (Article 131 paragraph (2));
23. without the authorisation of a performer distorts, mutilates or otherwise modifies the artistic performance (Article 132 paragraph (1));
24. without the authorisation of a performer or other holder of the performer's rights or the performer's collective management organisation fixes its unfixed performance or

- reproduces the fixed performance for further distribution (Article 134, in connection with Article 33 paragraph (1), Article 34 paragraph (1) and Article 139);
25. as a producer of empty sound, image or text carriers or a producer of audio and visual recording devices or an importer of empty sound, image or text carriers or an importer of audio of visual recording devices, fails to pay an equitable remuneration for reproduction of a performance where it may be reproduced without the authorisation of the performer for private use (Article 185 paragraph (1) in connection with Article 183 paragraph (2) and Article 184 paragraph (1));
  26. without the authorisation of a performer or other holder of the performer's rights or the performer's collective management organisation distributes, except by renting, a fixed performance (Article 135 paragraph (1) in connection with Article 34 paragraph (1) and Article 139);
  27. without the authorisation of a performer or other holder of the performer's rights or the performer's collective management organisation rents a fixed artistic performance (Article 135 paragraph (1) in connection with Article 34 paragraph (6) and Article 139);
  28. fails to pay an equitable remuneration to the performer's collective management organisation for renting the performer's fixed performance which he cannot waive, where he transferred his renting right to a phonogram producer (Article 135. paragraph (2) in connection with Article 34. paragraphs (2) and (6) and Article 139.);
  29. without the authorisation of a performer or other holder of the performer's rights or the performer's collective management organisation stores the performer's fixed performance for distribution (Article 135 paragraph (1) in connection with Article 34 paragraph (1) and Article 139);
  30. without the authorisation of a performer or other holder of the performer's rights or the performer's collective management organisation undertakes other actions for distribution of the performer's fixed performance (Article 135 paragraph (1) in connection with Article 34 paragraph (1) and Article 139);
  31. fails to pay a remuneration for public lending of the performer's fixed performance if an original or copies of the performer's fixed performance, in respect of which further distribution is permitted, by mediation of public libraries are given for use in a limited period, without earning a direct or indirect economic or commercial benefit (Article 135 paragraph (1) in connection with Article 34 paragraphs 3 and 7 and Article 139);
  32. without the authorisation of a performer or other holder of the performer's rights or the performer's collective management organisation communicates the performance to the public in any manner (Article 136 paragraph (1) in connection with Article 36 and Article 139);
  33. without the authorisation of a phonogram producer or other holder of the phonogram producer's rights reproduces a phonogram for distribution (Article 142 paragraph (1) subparagraph 1 in connection with Article 33 paragraph (1), Article 34 paragraph (1) and Article 145);
  34. as a producer of empty sound, image or text carriers or a producer of audio and visual recording devices or an importer of empty sound, image or text carriers or an importer of audio of visual recording devices, fails to pay an equitable remuneration for reproduction of a phonogram where it may be reproduced without the authorisation of the phonogram producer for private use (Article 185 paragraph (1) in connection with Article 183 paragraph (2) and Article 184 paragraph (1));
  35. without the authorisation of a phonogram producer or other holder of the phonogram producer's rights distributes a phonogram, except by renting (Article 142. paragraph (1) subparagraph 2, in connection with Article 34 paragraph (1) and Article 145);

36. without the authorisation of a phonogram producer or other holder of the phonogram producer's rights or the phonogram producer's collective management organisation rents a phonogram (Article 142 paragraph (1) subparagraph 2 in connection with Article 145);
37. without the authorisation of a phonogram producer or other holder of the phonogram producer's rights stores a phonogram for distribution (Article 142 paragraph (1) subparagraph 2. in connection with Article 34. paragraph (1) and Article 145.);
38. without the authorisation of a phonogram producer or other holder of the phonogram producer's rights undertakes other actions for distribution of a phonogram (Article 142 paragraph (1) subparagraph 2 in connection with Article 34 paragraph (1) and Article 145);
39. fails to pay a remuneration for public lending of the phonogram if an original or copies of the phonogram, in respect of which further distribution is permitted, by mediation of public libraries are given for use in a limited period, without earning a direct or indirect economic or commercial benefit (Article 142 paragraph (1) subparagraph 2 in connection with Article 34 paragraphs (3) and (7) and Article 145);
40. without the authorisation of a phonogram producer or other holder of the phonogram producer's rights or the phonogram producer's collective management organisation makes a phonogram available to the public (Article 142 paragraph (1) subparagraph 3 in connection with Article 46 and Article 145);
41. without the authorisation of a phonogram producer or other holder of the phonogram producer's rights or the phonogram producer's collective management organisation reproduces and communicates to the public, and makes available to the public, a phonogram within an ancillary online service (Article 142 paragraph (1) subparagraph 4 in connection with Article 36, Article 48 and Article 145);
42. without the authorisation of a phonogram producer or other holder of the phonogram producer's rights or the phonogram producer's collective management organisation communicates to the public, and makes available to the public, a phonogram, when providing the public with access to phonograms uploaded by users on platforms for online content-sharing (Article 142 paragraph (1) subparagraph 5 in connection with Article 36, Article 50 and Article 145);
43. fails to pay a share in a single equitable remuneration for public presentation, broadcasting, retransmission, transmission by direct injection, public communication of broadcasting, retransmission, transmission by direct injection and making available to the public and any other communication of a phonogram to the public (Article 142 paragraph (1) subparagraph 6 in connection with Article 36, Article 41, Article 42, Article 44, Article 45, Article 46, Article 136 paragraph (2) and Article 145);
44. without the authorisation of an audiovisual producer or other holder of the audiovisual producer's rights reproduces a videogram for distribution (Article 152 subparagraph 1 in connection with Article 33 paragraph (1), Article 34 paragraph (1) and Article 155);
45. as a producer of empty sound, image or text carriers or a producer of audio and visual recording devices or an importer of empty sound, image or text carriers or an importer of audio of visual recording devices, fails to pay an equitable remuneration for reproduction of a videogram where it may be reproduced without the authorisation of the audiovisual producer for private use (Article 185 paragraph (1) in connection with Article 183 paragraph (2) and Article 184 paragraph (1));
46. without the authorisation of an audiovisual producer or other holder of the audiovisual producer's rights distributes, except by renting, a videogram (Article 152 subparagraph 2 in connection with Article 34 paragraph (1) and Article 155);

47. without the authorisation of an audiovisual producer or other holder of the audiovisual producer's rights rents a videogram (Article 152 subparagraph 2 in connection with Article 34 paragraph (6) and Article 155);
48. without the authorisation of an audiovisual producer or other holder of the audiovisual producer's rights stores a videogram for distribution (Article 152 subparagraph 2 in connection with Article 34 paragraph (1) and Article 155);
49. without the authorisation of an audiovisual producer or other holder of the audiovisual producer's rights undertakes other actions for distribution of a videogram (Article 152 subparagraph 2 in connection with Article 34 paragraph (1) and Article 155);
50. fails to pay a remuneration for public lending of a videogram if an original or copies of a videogram, in respect of which further distribution is permitted, by mediation of public libraries are given for use in a limited period, without earning a direct or indirect economic or commercial benefit (Article 152 subparagraph 2 in connection with Article 34 paragraphs (3) and (7) and Article 155);
51. without the authorisation of an audiovisual producer or other holder of the audiovisual producer's rights presents a videogram (Article 152 subparagraph 3 in connection with Article 36, Article 41 and Article 155);
52. without the authorisation of an audiovisual producer or other holder of the audiovisual producer's rights makes a videogram available to the public (Article 152 subparagraph 4 in connection with Article 36, Article 46 and Article 155);
53. without the authorisation of an audiovisual producer or other holder of the audiovisual producer's rights reproduces and communicates to the public, and makes a videogram available to the public within an ancillary online service (Article 152 subparagraph 5 in connection with Article 36, Article 48 and Article 155);
54. without the authorisation of an audiovisual producer or other holder of the audiovisual producer's rights communicates to the public, and makes a videogram available to the public, when providing the public with access to videograms uploaded by users on platforms for online content-sharing (Article 152. subparagraph 6. in connection with Article 36., Article 50. and Article 155.);
55. without the authorisation of a broadcasting organisation or other holder of the broadcasting organisation's rights fixes an unfixed programme signal (Article 158. paragraph 1. subparagraph 1. in connection with Article 33. paragraph (1) and Article 162.);
56. without the authorisation of a broadcasting organisation or other holder of the broadcasting organisation's rights reproduces a programme signal for distribution (Article 158 paragraph 1 subparagraphs 2 and 3 in connection with Article 33 paragraph (1), Article 34 paragraph (1) and Article 162);
57. without the authorisation of a broadcasting organisation or other holder of the broadcasting organisation's rights distributes, except by renting, a fixed programme signal (Article 158 paragraph (1) subparagraph 3 in connection with Article 34 paragraph (1) and Article 162);
58. without the authorisation of a broadcasting organisation or other holder of the broadcasting organisation's rights broadcasts a programme signal (Article 158 paragraph (1) subparagraph 4 in connection with Article 36, Article 42 and Article 162);
59. without the authorisation of a broadcasting organisation or other holder of the broadcasting organisation's rights retransmits a programme signal (Article 158 paragraph (1) subparagraph 5 in connection with Article 36, Article 44 and Article 162);

60. without the authorisation of a broadcasting organisation or other holder of the broadcasting organisation's rights transmits by direct injection a programme signal (Article 158 paragraph (1) subparagraph 6 in connection with Article 36, Article 45 and Article 162);
61. without the authorisation of a broadcasting organisation or other holder of the broadcasting organisation's rights publicly communicates a programme signal broadcast, rebroadcast, transmitted by direct injection or made available to the public if such communication available to the public is conducted with payment of a ticket (Article 158 paragraph (1) subparagraph 7 in connection with Article 36, Article 47 and Article 162);
62. without the authorisation of a broadcasting organisation or other holder of the broadcasting organisation's rights makes a programme signal available to the public (Article 158 paragraph (1) subparagraph 8 in connection with Article 36, Article 46 and Article 162);
63. without the authorisation of a broadcasting organisation or other holder of the broadcasting organisation's rights reproduces and communicates to the public, and makes available to the public a programme signal within an ancillary online service (Article 158 paragraph (1) subparagraph 9 in connection with Article 36, Article 48 and Article 162);
64. without the authorisation of a broadcasting organisation or other holder of the broadcasting organisation's rights communicates to the public, and makes available to the public when providing the public with access to programme signals uploaded by users on platforms for online content-sharing (Article 158. paragraph (1) subparagraph 10 in connection with Article 36, Article 50 and Article 162);
65. without the authorisation of a publisher of press publications or other right holder of a publisher of press publications or a collective management organisation of the publisher of press publications reproduces a press publication or its part for distribution (Article 165 paragraph (1) subparagraph 1 and 2 in connection with Article 33 paragraph (1), Article 34 paragraph (1) and Article 172);
66. as a producer of empty sound, image or text carriers or a producer of audio and visual recording devices or a producer of photocopying devices or an importer of empty sound, image or text carriers or an importer of audio of visual recording devices or an importer of photocopying devices, fails to pay an equitable remuneration for reproduction of a press publication where it may be reproduced without the authorisation of the publisher of a press publication for private use (Article 185 paragraph (1) in connection with Article 183 paragraph (2) and Article 184 paragraph (1));
67. as a provider of a photocopying service against payment, fails to pay an equitable remuneration for reproduction of a press publication when it may be reproduced without the authorisation of the publisher of a press publication by photocopying for private use (Article 185 paragraph (1) in connection with Article 183 paragraph (3));
68. without the authorisation of a publisher of press publications or other right holder of a publisher of press publications or a collective management organisation of the publisher of press publications distributes, except by renting, a press publication (Article 165 paragraph (1) subparagraph 2 in connection with Article 34 paragraph (1) and Article 172);
69. without the authorisation of a publisher of press publications or other right holder of a publisher of press publications or a collective management organisation of the publisher of press publications rents a copy of a press publication (Article 165

- paragraph (1) subparagraph 2 and Article 218 paragraph (3) item 4 subitem a) in connection with Article 34 paragraph 6 and Article 172);
70. without the authorisation of a publisher of press publications or other right holder of a publisher of press publications or a collective management organisation of the publisher of press publications stores a press publication for distribution (Article 165 paragraph (1) subparagraph 2 in connection with Article 34 paragraph (1) and Article 172);
  71. without the authorisation of a publisher of press publications or other right holder of a publisher of press publications or a collective management organisation of the publisher of press publications undertakes other actions for distribution of a press publication (Article 165 paragraph (1) subparagraph 2 in connection with Article 34 paragraph (1) and Article 172);
  72. fails to pay a remuneration for public lending of a press publication if an original or copies of a press publication, in respect of which further distribution is permitted, by mediation of public libraries are given for use in a limited period, without earning a direct or indirect economic or commercial benefit (Article 165 paragraph (1) subparagraph 2 in connection with Article 34 paragraphs (3) and (7) and Article 172);
  73. without the authorisation of a publisher of press publications or other right holder of a publisher of press publications or a collective management organisation of the publisher of press publications in any manner communicates a press publication or its part to the public (Article 165 paragraph (1) subparagraph 3 in connection with Article 36 and Article 172);
  74. without the authorisation of a publisher of press publications or other right holder of a publisher of press publications or a collective management organisation of the publisher of press publications remakes a press publication or its part (Article 165 paragraph (1) subparagraph 4 in connection with Article 54 and Article 172);
  75. without the authorisation of a publisher of press publications or other right holder of a publisher of press publications or a collective management organisation of the publisher of press publications reproduces a press publication or its part within an information society service (Article 166 paragraph (1) subparagraph 1 in connection with Article 33 paragraph (1) and Article 172);
  76. without the authorisation of a publisher of press publications or other right holder of a publisher of press publications or a collective management organisation of the publisher of press publications communicates a press publication or its part to the public in any manner within an information society service (Article 166 paragraph (1) subparagraph 2 in connection with Article 36 and Article 172);
  77. without the authorisation of a producer of a non-original database or other right holder of a producer of a non-original database reproduces a non-original database (Article 175 paragraph (1) subparagraph 1 in connection with Article 33 paragraph (1) and Article 179);
  78. without the authorisation of a producer of a non-original database or other right holder of a producer of a non-original database distributes, except by renting, a non-original database (Article 175 paragraph (1) subparagraph 2 in connection with Article 34 paragraph (1) and Article 179);
  79. without the authorisation of a producer of a non-original database or other right holder of a producer of a non-original database rents a non-original database (Article 175 paragraph (1) subparagraph 2 in connection with Article 34 paragraphs (2) and (6) and Article 179);
  80. without the authorisation of a producer of a non-original database or other right holder of a producer of a non-original database in any manner communicates a non-original

- database to the public (Article 175 paragraph (1) subparagraph 3 in connection with Article 36 and Article 179);
81. without the authorisation of a producer of a non-original database or other right holder of a producer of a non-original database remakes a non-original database (Article 175 paragraph (1) subparagraph 4 in connection with Article 54 and Article 179);
  82. as a producer of empty sound, image or text carriers or a producer of audio and visual recording devices or a producer of photocopying devices or an importer of empty sound, image or text carriers or an importer of audio of visual recording devices or an importer of photocopying devices, fails to pay an equitable remuneration for reproduction of the publisher's written editions for private use (Article 185 paragraph (3) in connection with Article 183 paragraph (2) and Article 184 paragraph (1));
  83. as a provider of photocopying service against payment, fails to pay an equitable remuneration for reproduction of the publisher's written editions for private use (Article 185 paragraph (3) in connection with Article 183 paragraph (3));
  84. fails to indicate clearly and visibly in its publication the name of the publisher of a press publication, a broadcasting organisation, other media or electronic media publisher who was the first to have published daily news, other news or other media information when publicly transmitting daily news and other news that have the character of ordinary media information and that are not a subject matter of copyright and other media information learned from other publicly published sources (Article 18 paragraph (4) subparagraph 1);
  85. fails to indicate clearly and visibly in its publication the name and surname of the journalist signed with publishing daily news, other news or other media information, if it is in compliance with common practice in media reporting, when publicly transmitting daily news and other news that have the character of ordinary media information and that are not a subject matter of copyright and other media information learned from other publicly published sources (Article 18 paragraph (4) subparagraph 2);
  86. fails to indicate clearly and visibly in its publication the name of the publisher of a press publication, a broadcasting organisation, other media or electronic media publisher as sources for creating his publications of the same daily news and other news or other media information, in such manner that does not require under this Act to obtain the authorisation of a right holder or a collective management organisation (Article 18 paragraph (5) subparagraph 1);
  87. fails to indicate clearly and visibly in its publication the name and surname of the journalist signed with publishing daily news, other news or other media information, if it is in compliance with common practice in media reporting, as sources for creating its publications of the same daily news and other news or other media information, in such manner that does not require under this Act to obtain the authorisation of a right holder or a collective management organisation (Article 18 paragraph (5) subparagraph 2).
- (2) A responsible person in a legal person shall be punished for the misdemeanours referred to in paragraph (1) of this Article by a fine amounting from HRK 2,000.00 up to 10,000.00.
  - (3) A natural person - a craftsman or other self- employed person, respectively, shall be punished for the misdemeanours, referred to in paragraph (1) of this Article, by a fine amounting from HRK 5,000.00 to 50,000.00, where the misdemeanour has been committed in the performance of his activities as a craftsman or other self-employed person, respectively.
  - (4) A natural person shall be punished for the misdemeanours referred to in paragraph (1) of this Article by a fine amounting from HRK 2,000.00 up to 10,000.00.



***Failure to Enforce the Limitation of  
Copyright and Related Rights***

Article 297

- (1) Any legal entity shall be punished for a misdemeanour by a fine amounting from HRK 5,000.00 to 50,000.00, if it:
1. fails to provide the persons who are authorised, pursuant to the provisions of Articles 181 to 212 of this Act, to use a copyright work or the subject matter of related rights, and who have proved that the conditions laid down in Article 181 of this Act have been fulfilled, and who are prevented from using or accessing it by applying technical measures referred to in Article 276 of this Act, with the means enabling them to use a copyright work or a subject matter of related rights in accordance with the limitations referred to in Articles from 191 to 212 of this Act, providing for special measures or entering into an agreement (Article 213, paragraph (1));
  2. fails to indicate clearly and visibly the application of technical measures, by indicating a technical measure and its effects as well as its full name and contact address (Article 213, paragraph (7)), on each copy of the copyright work or the subject matter of related rights, produced or imported for commercial purposes.
- (2) A responsible person in a legal entity shall be punished for the misdemeanours, referred to in paragraph (1) of this Article, by a fine amounting from HRK 1,000.00 to 5,000.00.
- (3) A natural person - a craftsman or other self- employed person, respectively, shall be punished for the misdemeanours, referred to in paragraph (1) of this Article, by a fine amounting from HRK 5,000.00 to 30,000.00, where the misdemeanour has been committed in the performance of his activities as a craftsman or other self-employed person, respectively.
- (4) A natural person shall be punished for the misdemeanours, referred to in paragraph (1) of this Article, by a fine amounting from HRK 1,000.00 to 5,000.00.

***Failure to Provide Information***

Article 298

- (1) Any legal person which uses a copyright or a subject matter of related rights, which does not submit to the collective management organisation the relevant information at its disposal, necessary for the collection of rights revenue and/or distribution of amounts due to right holders, within agreed or previously defined time limit and in an agreed or previously defined form (Article 234 paragraph (1)).
- (2) A responsible person in a legal person shall be punished for the misdemeanours referred to in paragraph (1) of this Article by a fine amounting from HRK 1,000.00 up to 5,000.00.
- (3) A natural person - a craftsman or other self- employed person, respectively, shall be punished for the misdemeanours referred to in paragraph (1) of this Article by a fine amounting from HRK 5,000.00 to 10,000.00, where the misdemeanour has been committed in the performance of his activities as a craftsman or other self-employed person, respectively.
- (4) A natural person shall be punished for the misdemeanours referred to in paragraph (1) of this Article by a fine amounting from HRK 1,000.00 up to 5,000.00.

***Unauthorised Collective Management of Rights***

Article 299

- (1) Any legal person shall be punished for a misdemeanour by a fine amounting from HRK 5,000.00 up to 50,000.00, which:
1. has a residence or a place of establishment in the Republic of Croatia, if it performs the activity of collective management of rights under this Act without the authorisation of the Office (Article 224 paragraph (1) and Article 225 paragraph (2));
  2. has a residence or a place of establishment in the Republic of Croatia, if it performs the activity of collective management of rights under this Act contrary to the authorisation of the Office issued in compliance with Article 224 paragraph (1) or Article 225 paragraph (2) of this Act or contrary to the provisions of this Act (Article 267 paragraph (4));
  3. has a residence or a place of establishment in a Member State of the European Union other than the Republic of Croatia, if it cannot perform the activity of collective management of rights by the law of the state where it has a residence or a place of establishment, and it performs such activity in the Republic of Croatia (Article 225 paragraph (3) and Article 266 paragraph (7));
  4. has a residence or a place of establishment in a Member State of the European Union other than the Republic of Croatia, if it can perform the activity of collective management of rights by the law of the state where it has a residence or a place of establishment, but it performs such activity in the Republic of Croatia without having previously notified the Office about its intention to perform such activity in the Republic of Croatia (Article 225 paragraph (3) and Article 266 paragraph (7));
  5. has a residence or a place of establishment in a Member State of the European Union other than the Republic of Croatia, and it performs the activity of collective management of rights in the Republic of Croatia contrary to the provisions of this Act (Article 267 paragraph (6)).
- (2) A responsible person in a legal person shall be punished for the misdemeanours referred to in paragraph (1) of this Article by a fine amounting from HRK 1,000.00 up to 5,000.00.
- (3) A natural person - a craftsman or other self- employed person, respectively, shall be punished for the misdemeanours referred to in paragraph (1) of this Article by a fine amounting from HRK 5,000.00 to 30,000.00, where the misdemeanour has been committed in the performance of his activities as a craftsman or other self-employed person, respectively.

***Misdemeanours Committed for Economic Benefit***

Article 300

- (1) If any legal person commits the misdemeanours referred to in Articles from 296 to 299 of this Act for economic benefit, it shall be punished by a fine amounting from HRK 10,000.00 up to 100,000.00.
- (2) A responsible person in a legal person shall be punished for the misdemeanours referred to in paragraph (1) of this Article by a fine amounting from HRK 4,000.00 up to 10,000.00.
- (3) A natural person - a craftsman or other self- employed person, respectively, shall be punished for the misdemeanours, referred to in paragraph (1) of this Article, by a fine amounting from HRK 5,000.00 to 100,000.00, where the misdemeanour has been committed in the performance of his activities as a craftsman or other self-employed person, respectively.

(4) A natural person shall be punished for the misdemeanours referred to in paragraph (1) of this Article by a fine amounting from HRK 4,000.00 up to 10,000.00.

## PART EIGHT

### SPECIAL PROVISIONS ON CROATIAN AUDIOVISUAL WORKS U ARHIVU I PROGRAMIMA HRVATSKE RADIOTELEVIZIJE

#### *Copyrights on Audiovisual Works Stored in the Archive of the Croatian Radio Television, and Created before 1990*

##### Article 301

(1) Audiovisual works whose first standard copy was made before 1990, whose principal director or screenwriter or principal cameraman or principal image and sound editor or composer of music specially composed for use in that audiovisual work or the principal cartoonist or animator (if any), is a Croatian citizen or a member of the Croatian people or produced or co-produced by an audiovisual producer who at the time of the first standard copy of such audiovisual work had its registered office in the Republic of Croatia or its predecessor state and a copy of which is in the archives of the Croatian Radio Television on the date of this Act entering into force, represent cultural goods in the sense of the law which regulates the preservation and protection of cultural goods.

(2) The copyright on audiovisual works referred to in paragraph (1) of this Article shall be presumed to belong to: the principal director as the main co-author, the screenwriter, the principal cameraman, the principal image and sound editor, the author of music specially composed for that audiovisual work and the principal cartoonist or animator, if it is a cartoon or animated audiovisual work.

(3) Audiovisual producers of audiovisual works referred to in paragraph (1) of this Article may, within two years from the date of this Act entering into force, submit to the Croatian Radio Television written evidence in the form of a contract or similar legal transaction on the acquisition of economic copyright in exploitation of those audiovisual works. If the audiovisual producer of such audiovisual work has ceased to exist, and there is a legal successor, such legal successor is obliged to submit evidence of his legal succession, together with evidence of the acquisition of economic copyright rights of exploitation.

(4) if within the period referred to in paragraph (3) of this Article the audiovisual producer of the audiovisual work referred to in paragraph (1) of this Article or his legal successor fails to submit evidence of acquisition of economic copyright in exploitation and evidence of legal succession, the presumption referred to in paragraph (2) of this Article shall become irrefutable.

#### *Management of Copyrights on Audiovisual Works Stored in the Archive of the Croatian Radio Television, and Created before 1990*

##### Article 302

(1) Croatian Radio Television is authorised, pursuant to this Article, to reproduce, distribute, broadcast, rebroadcast, make available to the public, communicate to the public and make available to the public within an ancillary online service and upload to platforms for online content-sharing, the audiovisual works referred to in Article 301 paragraph (1) of this Act, all for commercial or non-commercial purposes, without the author's approval referred to

in Article 301, paragraph (2) of this Act, provided that it concludes a contract with an appropriate collective management organisation authorised in accordance with the provisions of this Act, which shall define a single annual remuneration for all the above forms of exploitation of audiovisual works referred to in Article 301 paragraph (1) of this Act, in a lump sum.

(2) The collective management organisation referred to in paragraph (1) of this Article shall determine in its rules on the distribution of the ratio of shares in the remuneration referred to in paragraph (1) of this Article between the principal co-author and other co-authors referred to in Article 301, paragraph (2) of this Act and it shall distribute appropriate amounts of remuneration to those persons, i.e. their heirs and other legal successors at least once a year, in accordance with the data on the use of audiovisual works referred to in Article 301 paragraph (1) of this Act which it receives from the Croatian Radio Television.

(3) The provision of paragraph (1) of this Article shall not apply to audiovisual works referred to in Article 301 paragraph (1) of this Act, in respect of which the audiovisual producer, or his legal successor, proves the acquisition of economic copyright in exploitation and his legal succession in accordance with Article 301 paragraph (3) of this Act.

(4) The contract concluded by the Croatian Radio Television with collective management organisations authorised in accordance with the provisions of this Act for the collective management of appropriate musical copyrights, musical rights of performers and phonogram producers shall be considered to include remuneration for the use of all musical works, musical performances and phonograms used in audiovisual works referred to in Article 301 paragraph (1) of this Act and that their use does not require any additional authorisation, including authorisation for broadcasting, remaking and reproduction.

***Acting Performances in Audiovisual Works Stored in the  
Archive of the Croatian Radio Television, and Created before 1990***

Article 303

All property rights to acting artistic performances in audiovisual works referred to in Article 301 paragraph (1) of this Act, for which the audiovisual producer or his legal successor does not furnish evidence of acquiring the right to exploit acting performances and of his legal succession, as prescribed in Article 302 paragraph (3) of this Act, shall be considered to belong to the Croatian Radio Television.

***Repeated Broadcasts of Croatian Audiovisual Works in the  
Programmes of the Croatian Radio Television***

Article 304

(1) For each repeated broadcast after the first broadcast (hereinafter: rerun broadcast) of an audiovisual work, whose main co-author is a Croatian citizen or a member of the Croatian people, in the programmes of the Croatian Radio Television, the principal co-author is entitled to an equitable and proportionate remuneration, which must be managed through an appropriate collective management organisation which is authorised in accordance with the provisions of this Act.

(2) The Croatian Radio Television shall conclude a contract with an appropriate collective management organisation authorised in accordance with the provisions of this Act, which shall define a single annual remuneration for all rerun broadcasts referred to in paragraph (2) of this Article, in a lump sum.

(3) If the Croatian Radio Television fails to conclude a contract with an appropriate collective management organisation authorised in accordance with the provisions of this Act,

the remuneration shall be defined with effective application of the provisions of Article 235 and 236 of this Act in respect of the procedure of defining a lump remuneration and Article 67 of this Act in respect the amount of a single annual remuneration in a lump sum.

(4) The provisions of collective management of rights under this Act shall apply accordingly to all other respects of proceedings by a collective management organisation referred to in this Article.

(5) This Article shall not prejudice contracts on audiovisual production concluded between audiovisual producers and principal co-authors or audiovisual producers and the Croatian Radio Television, nor remunerations agreed in such contracts for the creation of audiovisual works and for establishment of the rights in exploiting them, regardless of the time when these contracts are concluded. This Article shall leave intact all the rights and obligations of the contracting parties in such contracts.

## **PART NINE**

### **TRANSITIONAL AND FINAL PROVISIONS**

#### *Application of the Act to the Subject matter of Protection Existing before Its Entering into Force*

##### Article 305

(1) This Act shall apply to all copyright works, all performances, all phonograms, all videograms, all programme signals, all non-original database and all written editions in respect of which the rights have not expired until the date on which this Act enters into force.

(2) This Act shall apply to press publications published for the first time after 6 June 2019.

(3) All the rights of authors, performers, phonogram producers, audiovisual producers, broadcasting organisations, database producers and publishers of written editions, acquired before this Act entering into force, including all the rights of exploitation acquired before this Act entering into force shall remain intact.

#### *Application of the Act to the Contracts Existing before Its Entering into Force*

##### Article 306

(1) In relation to the contracts concluded before 1 July 1994, the right referred to in Article 34 paragraph (6), or Article 135 paragraph (2) of this Act shall exist only in the case where an author, or a performer or his agent submitted a request for that purpose before 1 January 1997. If right holders failed to agree on the amount of remuneration, the remuneration shall be defined in accordance with the provisions of Article 235 of this Act.

(2) As of 7 June 2023, the principle of the country of origin referred to in Article 49 paragraph (1) of this Act shall apply to contracts and agreements on managing copyright and related rights that refer to reproduction and communication to the public, and making available to the public, within an ancillary online service, which are concluded before this Act entering into force, and expire after 7 June 2023.

(3) Until 7 June 2025, Article 45 of this Act shall not apply to authorisations for communication to the public undertaken by transmitting programmes by direct injection, which have been granted before this Act entering into force, and expire after 7 June 2025.

(4) Contracts between performers and phonogram producers on establishing rights to exploit performances fixed on a phonogram, which are concluded before 1 November 2013, shall take effect until expiry of the time limit of protecting a performer referred to in Article 138 of this Act, unless otherwise specified by the contracts or if circumstances arise as referred to in Article 146 paragraph (5) or Article 148 paragraph (4) if this Act or if the contract ceased to exist for any other reason.

(5) Contracts on exploitation of musical performances concluded between performers and phonogram producers before this Act entering into force shall be harmonised with the provisions of this Act within three years from the date of this Act entering into force; otherwise, it shall be considered that a phonogram producer has not acquired the rights to exploit musical performances online and that the rights of a performer in relation to exploiting musical performances online shall be managed collectively.

***Application of the Act to Copyright Works  
Created in the Course of Employment and on Commission***

Article 307

This Act shall apply to copyright works and subject matter of related rights created in the course of employment or on commission after this Act coming into force, and on the basis of employment contracts or contracts on commission concluded before this Act entering into force.

***Authorisations for Collective Management of Rights***

Article 308

Authorisations for the performance of the activity of collective management of rights granted by the Office to collective management organisations and effective on the date of this Act entering into force shall remain in force.

***Price Tariffs of Collective  
Management Organisations***

Article 309

All price tariffs of collective management organisations valid on the date of this Act entering into force shall remain in force.

***Appointment of the Council of Experts upon  
This Act Entering into Force***

Article 310

(1) The Council of Experts appointed by the Copyright and Related Rights Act (“Official Gazette”, No. 167/03, 79/07, 80/11, 141/13, 127/14, 62/17 and 96/18) shall continue operating in accordance with the provisions of that Act until the Council of Experts shall be appointed according to paragraph (2) of this Article, when its term ends.

(2) The Minister responsible for the field of copyright and related rights shall appoint the Council of Experts on the proposal of the Director General of the Office, in accordance with this Act, within two months upon the date of its entering into force.

***Obligation of the Croatian Radio Television in Relation to Audiovisual Works  
Stored in the Archive of the Croatian Radio Television, and Created before 1990***

Article 311

Within eight days upon the date of this Act entering into force, the Croatian Radio Television shall publish a public announcement on its website to invite audiovisual producers referred to in Article 301 paragraph (3) of this Act or their legal successors to furnish evidence on acquiring the rights of exploitation of audiovisual works referred to in Article 301 paragraph (1) of this Act and on their legal succession.

***Infringements of Rights and Pending Procedures***

Article 312

(1) Infringements of copyright and related rights committed before the date of this Act entering into force shall be resolved in compliance with the provisions of the Copyright and Related Rights Act (“Official Gazette”, No. 167/03, 79/07, 80/11, 141/13, 127/14, 62/17 and 96/18).

(2) Pending procedures regarding the protection of copyright and related rights initiated before the date of this Act entering into force shall be completed in compliance with the provisions of the Copyright and Related Rights Act (“Official Gazette”, No. 167/03, 79/07, 80/11, 141/13, 127/14, 62/17 and 96/18).

***Subordinate Legislation***

Article 313

(1) The Minister responsible for the field of copyright and related rights shall enact the regulations referred to in Article 224 paragraph (14) and Article 238 paragraph (11) of this Act within four months from the date of this Act entering into force.

(2) Regulations on Professional Criteria and Procedure of Granting Authorisations for Collective Management of Rights and the Regulations on Remunerations for Operation of the Council of Experts for remunerations in the field of copyright and related rights (“Official Gazette” No. 107/17) shall remain in force until the date the regulations referred to in paragraph (1) of this Article enter into force.

***Cease of the Validity of Legal Provisions***

Article 314

On the date this Act enters into force, the Copyright and Related Rights Act (“Official Gazette” No. 167/03, 79/07, 80/11, 141/13, 127/14, 62/17 and 96/18) shall cease to be in force.

***The Entry of This Act into Force***

Article 315

This Act shall enter into force on the eighth day following its publication in the “Official Gazette”, except for Article 69 of this Act that shall enter into force on 7 June 2022 and Article 217 paragraph (3) item 2 subitem a) and Article 218 paragraph (3) item 4 subitem a) of this Act that shall enter into force on 1 January 2023.

## ANNEX I

### Article 1

This Annex I regulates the appropriate sources for conducting a diligent search, the recording procedure and the content of records on orphan works.

### Article 2

Publicly available libraries, educational institutions or museums and other legal entities performing museum activities as well as archives, film and audio heritage institutions and public broadcasting organisations established in the Republic of Croatia shall conduct in good faith, for the purpose of identification and/or finding authors or co-authors of works from their collections and archives, a careful search for each work. A careful search is carried out before the use of the work, by searching through appropriate sources for the relevant category of work. If there is evidence to suggest that relevant data on right holders can be found in other countries, the data sources available in those countries shall also be searched.

### Article 3

Appropriate sources are:

1. for published books:
  - a) collections of mandatory copies, particularly national bibliography, library catalogues, authority files, normative and bibliographic databases of libraries and other institutions;
  - b) databases and documentation of publishers' associations and authors' associations in the Republic of Croatia;
  - c) existing databases and registers, WATCH (Writers, Artists and Their Copyright Holders), ISBN (International Standard Book Number) and databases on books in print;
  - d) databases and documentation of appropriate collective management organisations, in particular for the management of rights of reproduction;
  - e) sources consolidating several databases and registers, including VIAF (Virtual International Authority Files) and ARROW (Available Registers of Rights Information and Orphan Works);
2. for newspapers, magazines, daily newspapers and periodicals:
  - a) ISSN (International Standard Serial Number) for periodicals;
  - b) indexes and catalogues from libraries and collections;
  - c) collections of mandatory copies, particularly national and special bibliographies;
  - d) databases and documentation of appropriate publishers' associations and authors' and journalists' associations in the Republic of Croatia;
  - e) databases and documentation of appropriate collective management organisations, in particular for the management of rights of reproduction;
  - f) authority files;
3. for visual works, including works of fine art, photos, illustrations, drawings, architecture, sketches of later works and other similar works found in books, magazines, newspapers, daily newspapers and other works:
  - a) sources given under items 1 and 2 of this paragraph;
  - b) databases and documentation of appropriate collective management organisations, in particular for visual art, including organisations for the management of rights of reproduction;
  - c) as necessary, databases of painting archiving agencies;
4. for audiovisual works, artistic performances, phonograms and videograms:



- a) collections of mandatory copies;
- b) databases and documentation of producers' associations in the Republic of Croatia;
- c) databases and documentation of institutions for film and audio heritage and national libraries;
- d) databases with relevant standards and identifiers such as ISAN (International Standard Audiovisual Number) for audiovisual material, ISWC (International Standard Music Work Code) for musical works and ISRC (International Standard Recording Code) for phonograms;
- e) databases and documentation of appropriate collective management organisations, in particular for authors, performers, phonogram producers and audiovisual producers;
- f) lists of associates and other information appearing on the work's packaging;
- g) databases and documentation of other associations representing a specific category of right holders.

#### Article 4

Institutions referred to in Article 2 of this Annex I shall keep records of diligent searches conducted. Data from these records shall be delivered to the State Intellectual Property Office, which shall forward them to the European Union Intellectual Property Office within 30 days upon their receipt to be stored in a single publicly available database established and administered online by that Office in compliance with the Regulation (EU) No. 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the European Union Intellectual Property Office with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights.

#### Article 5

The records referred to in Article 4 of this Annex I including the following information:

1. results of diligent searches conducted by these institutions and on the basis of which they drew a conclusion that the works are considered to be orphan works;
2. the use of orphan works undertaken by these institutions in accordance with the provisions of this Act;
3. all changes regarding the cessation of the status of orphan works used by these institutions;
4. valid contact data of an institution.