

COPYRIGHT STATUTE

Law No. 633 of April 22, 1941, for the Protection of Copyright and Other Rights Connected with the Exercise Thereof

(as amended up to November 16, 1994)

Part I PROVISIONS RELATING TO COPYRIGHT

CHAPTER I Work Protected

Article 1

Intellectual works having a creative character and appertaining to literature, music, the graphic arts, architecture, the theatre and cinematography, whatever their mode or form of expression, shall be protected according to this Law.

Computer programs shall further be protected as literary works, pursuant to the Berne Convention for the Protection of Literary and Artistic Works, which was ratified and enforced by Law no. 399 of June 20, 1978.

Article 2

In particular the following shall be protected:

- 1) literary, dramatic, scientific, didactic and religious works, whether in written or oral form;
- 2) musical works and compositions, with or without words, dramatico-musical works, and musical variations which constitute original works;
- 3) choreographic works and pantomimes, the acting form of which is fixed in writing or otherwise;
- 4) works of sculpture, painting, drawing, engraving and similar graphic arts, including scenic art, even when such works are applied to an industrial product if their artistic value is distinct from the industrial character of the product with which they are associated;
- 5) architectural plans and works;
- 6) works of cinematographic art, whether in silent or sound form, provided they are not *à*ere documentaries protected in accordance with the provisions of Chapter V of Part II.
- 7) works of photographic art and those expressed with processes analogous to photograph, provided that it is not a simple photograph protected according to the provisions of Chapter V of Part II.
- 8) computer programs, whatever may be the form of their expression, provided they are an original work as resulting from the author's intellectual creation. The protection provided by this law shall not apply to ideas and principles underlying any program component, including those underlying the interfaces thereof. "Program" shall also mean preparatory materials used for developing the said program.

Article 3

Collective works formed by the assembling of works, or part of works, and possessing the character of a self-contained creation resulting from selection and co-ordinator for a specific

literary, scientific, didactic, religious, political or artistic purpose, such as encyclopaedias, dictionaries, anthologies, magazines and newspapers, shall be protected as original works, independently of and without prejudice to any copyright subsisting in the constituent works or parts thereof.

Article 4

Without prejudice to the rights subsisting in the original work, elaborations of a creative character of any such work, such as translations into another language, transformations into any other literary or artistic form, modifications and additions constituting a substantial recasting of the original work, adaptations, reductions, abridgements and variations which do not constitute an original work, shall also be protected.

Article 5

The provisions of this Law shall not apply to the texts of official acts of the State or of public administrations, whether Italian or foreign.

CHAPTER II SUBJECTS OF THE RIGHT.

Article 6

Copyright shall be acquired by creation of a work resulting from an intellectual effort.

Article 7

In the case of a collective work, the person who organizes and directs its creation shall be deemed to be the author.

Within the limits of his contribution, the person who has elaborated a work shall be deemed to be the author of such elaboration.

Article 8

The person who, in the customary manner, is indicated as author, or is announced as such in the course of the recitation, performance or broadcasting of a work shall, in the absence of proof to the contrary, be deemed to be the author of the work.

Any pseudonym, professional name, initials or customary sign, well known as being equivalent to a true name, shall be deemed to have the same value as such true name.

Article 9

Any person who has performed or in any manner published an anonymous or pseudonymous work shall be entitled to assert the rights of the author reveals his identity.

This provision shall not apply in the second paragraph of the preceding Article.

Article 10

If the work has been created by the indistinguishable and inseparable contributions of two or more persons, the copyright shall belong to all the co-authors in the common.

In the absence of proof of a written agreement to the contrary, the undivided portions shall be presumed to be of equal value.

The provisions which regulate property owned in common shall be applicable. Moreover, defense of the moral right may, at any time, be exercised individually by any co-author; and the work, if unpublished, may not be published, nor may it be modified or utilized in a form differing

from that of first publication, without the agreement of all the co-authors. However, in the case of unjustified refusal by one or more co-authors, publication, modification or new utilization of the work may be authorized by the judicial authority upon such conditions and terms as that authority may order.

Article 11

Copyright in works created and published under the name, on the account, and at the expense of the State, the Provinces and Communes shall belong to them.

In the absence of agreement to the contrary with the authors of the works published, a like right shall also belong to private legal entities of a non-profit character, as well as to Academies and other public cultural organisations, in respect of collections of their proceedings and their publications.

CHAPTER III EXTENT AND DURATION OF COPYRIGHT

SECTION I PROTECTION OF ECONOMIC UTILIZATION OF THE WORK

Article 12

The author shall have the exclusive right to publish his work.

He shall, in addition, have the exclusive right to the economic utilization of the work in any form or manner, whether original or derivative, within the limits fixed by this Law, and especially as regards the exercise of the exclusive rights indicated in the following Articles.

The first form of exercise of the right of utilization shall be considered to be the first publication.

Article 12bis

In the absence of any contrary stipulation, if a computer program was created by an employee in the performance of his tasks, or upon instructions given by the employer, the latter shall have the exclusive right to the economic utilization of the program thus created.

Article 13

The exclusive right of reproduction has for its object the multiplication of copies of the work by any means, such as handcopying, printing, lithography, engraving, photography, phonography, cinematography, and any other process of reproduction.

Article 14

The exclusive right to transcribe has for its object the use of means suitable for transforming an oral work into a written work or into a work reproduced by one of the methods indicated in the preceding Article.

Article 15

The exclusive right of public performance or recitation has for its object the performance or recitation however effected, and with or without payment, of a musical, dramatic or cinematographic work, of any other work suitable for public exhibition, and of oral works.

The performance or recitation of a work within the normal family circle, or within a college, school, or institute of retreat or treatment, provided it is not given with gainful intent, shall not be deemed to be public performance or recitation.

Article 16

The exclusive right of diffusion has for its object the use of any means of diffusion over a distance, such as telegraphy, telephony, radio or television broadcasting, and other analogous means.

Article 17

The exclusive right of distribution has for its object the right to commercialize, to circulate or, at all events, to make available to the public, whatever means and for whatever purpose, the work or the copies thereof, and shall include, in addition, the exclusive right to introduce, into the territory of the countries of the European Union, for purposes of distribution, copies of the work made in countries not members of the European Union.

The delivery, free of charge, of copies of the work for advertising purposes or for teaching or scientific research purposes, when carried out and allowed by the person entitled thereto, shall not be deemed to be a form of exercise of exclusive right of distribution.

Article 18

The exclusive right of translation has for its object the translation of the work into another language or dialect.

The exclusive right of elaboration includes all forms of modification, elaboration and transformation of the work specified in Article 4.

The author shall, in addition, have the exclusive right of publishing his works in a collection.

Finally, he shall have the exclusive right of introducing any modification into the work.

Article 18bis

The exclusive right of lease has for its object the granting of the use of the original works, of copies thereof or of supporting materials, protected by copyright, for a limited period of time and for the purpose of achieving economic or commercial benefits, whether directly or indirectly.

The exclusive right of loan has for its object the granting of the use of the original works, of copies thereof or of supporting materials, protected by copyright, made by institutions open to the public, for a limited period of time and for purposes other than those as per paragraph 1.

The author, even when granting the right of lease to a producer of phonograms or cinematographic or audiovisual works or of sequences of motion pictures, shall retain the right to obtain fair remuneration for the lease contract made by the said producer with third parties.

Any contrary stipulation shall be void.

Paragraphs 1 to 4 shall not apply to plans or designs of buildings or to works of applied art.

Article 19

The exclusive rights specified in the preceding Articles are independent of one another. The exercise of any one of them shall not exclude the exercise of the other rights.

They shall pertain to the work in its entirety and to each of its parts.

SECTION II PROTECTION OF RIGHTS IN THE WORK CONCERNING THE DEFENSE OF THE PERSONALITY OF THE AUTHOR (MORAL RIGHT OF THE AUTHOR)

Article 20

Independently of the exclusive rights of economic utilization of the work referred to in the provisions of the preceding Section, and even after the transfer of such rights, the author shall retain the right to claim authorship of the work and to object to any distortion, mutilation or any other modification of, and other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.

However, in the case of works of architecture, the author may not oppose modifications found necessary in the course of construction. He may not, moreover, oppose other modifications which may be necessary in any such completed work. However, if the work is recognized by the competent State authority as having an important artistic character, the author shall be entrusted with the study and execution of such modifications.

Article 21

The author of an anonymous or pseudonymous work shall at all times have the right to reveal his identity and to have his position as author recognized by judicial procedure.

Notwithstanding any prior agreement to the contrary, persons who have derived title from an author who has revealed his identity shall be required to indicate the name of the author in publications, reproductions, transcriptions, performances, recitations and diffusions, or in any other form of manifestation or announcement to the public.

Article 22

The rights indicated in the preceding Articles shall be inalienable.

However, if the author was aware of and accepted modifications in his work, he shall not be entitled to intervene to prevent the performance thereof or to demand its suppression.

Article 23

After the death of the author, the right specified in Article 20 may be asserted, without limitation of time, by his spouse and children and, in the absence thereof, by his parents and other direct ascendants and descendants, by his brothers and sisters and their descendants.

If the public interest should so require, such action may also be taken by the (Presidente del Consiglio) after hearing the competent syndical association.

Article 24

The right of publishing unpublished works shall belong to the heirs of the author or to the legatees of the particular works, unless the author has expressly forbidden publication or has entrusted it to other persons.

When the author has fixed a period of time to precede publication, unpublished works shall not be published before the expiration thereof.

When the persons indicated in the first paragraph are two or more in number and there is disagreement between them, the matter shall be decided by judicial authority after hearing the representative of the public interest. The wishes of the deceased person, when expressed in writing, shall in all cases be respected.

The provisions contained in Part III, Chapter II, Section II, shall apply to such works.

SECTION III DURATION OF RIGHTS OF ECONOMIC UTILIZATION OF A WORK

Article 25

The rights of economic utilization of a work shall continue for the life of the author and until the termination of the fiftieth calendar year after his death.

Article 26

In the case of works indicated in Article 10, and of dramatico-musical and choreographic works and pantomimes, the duration of the rights of economic utilization belonging to each collaborator shall be determined in relation to the life of the last surviving co-author.

In the case of collective works, the duration of the rights of economic utilization belonging to each collaborator shall be determined in relation to the respective lives of such collaborators. The duration of rights of economic utilization of the work as a whole shall be fifty years from the date of first publication, whatever the form in which publication was effected, except in the case of magazines, newspapers and other periodical works to which the provisions of Article 30 shall apply.

Article 27

In the case of anonymous or pseudonymous works other than those specified in the second paragraph of Article 8, the duration of the rights of economic utilization shall be fifty years from the date of first publication, whatever may be the form in which publication was effected.

If, before the expiration of the said term, the author has revealed his identity, or his identity has been revealed by the persons indicated in Article 23 or by the persons authorized by the author, and in the manner established by the following Article, the term specified in Article 25 shall then apply.

Article 27bis

The duration of the rights of economic utilization of computer programs pursuant to the provisions of this Part shall be computed, in each case, as of the 1st of January of the year following that in which the event occurred which is designated in the said provisions.

Article 28

In order to acquire the benefits or normal duration of the rights of economic utilization, the revelation of identity must be made by means of declaration to the Office of Literary, Scientific and Artistic Property (Ufficio della proprietà letteraria, scientifica ed artistica) of the Office of the Chairman of the Council of Ministers in accordance with the provisions established by the Regulations.

The declaration of revelation shall be published in the form required by said provisions and shall, as regards third parties who have acquired rights in the work in its anonymous or pseudonymous condition, have effects as from the date of its deposit.

Article 29

The duration of the rights of economic utilization belonging, within the terms of Article 11, to the State, the Provinces, the Communes, the Academies, or to public cultural organizations, or to private legal entities of a non-profit character, shall be twenty years from first publication was effected. In the case of communications and memoranda published by Academies and other public cultural organizations, such term shall be reduced to two years, after which the author shall wholly reacquire the right to the unrestricted disposal of his writings.

Article 30

When parts or volumes of a given work are published separately and at different times, the duration of the rights of economic utilization, when fixed in years, shall run from the year of publication of each part or volume. The author shall enjoy the benefit of fractions of years.

In the case of collective periodical work, such as a magazine or newspaper, calculated from the end of the year of publication of the individual parts or numbers.

Article 31

In the case of works published for the first time after the death of the author, the duration of the rights of economic utilization shall be fifty years from first publication, irrespective of the place and form of such publication, provided publication occurs within twenty years from the death of the author.

Article 32

The rights of economic utilization of a cinematographic work shall continue for fifty years from the first public showing, provided this takes place not later than five years from the end of the calendar year in which the work was produced. If this period of five years is exceeded, protection shall continue for fifty years from the year following that in which the work was produced.

Article 32bis

The rights of economic utilization of a photographic work shall continue for fifty years from the year in which the work was produced.

CHAPTER IV SPECIAL PROVISIONS GOVERNING THE RIGHT OF ECONOMIC UTILIZATION OF CERTAIN CATEGORIES OF WORKS

SECTION I DRAMATICO-MUSICAL WORKS MUSICAL COMPOSITIONS WITH WORDS CHOREOGRAPHIC WORKS AND PANTOMIMES

Article 33

In the absence of a special agreement between collaborators in respect of operas, operettas, melologues, musical compositions with words, and dance and ballet music, the provisions of the three following Articles shall apply.

Article 34

The author of the musical part shall be entitled to exercise the rights of economic utilization, however, the rights flowing from the common ownership of the parties are not affected.

The profits derived from economic utilization shall be shared in proportion to the values of the respective literary and musical contributions.

In the operas, the value of the musical part shall be regarded as being threequarters of the total value of the work.

In operettas, in melologues, in musical compositions with words, in dance and ballet music, the value of the two contributions shall be considered equal.

Subject to the provisions of the following Articles, each collaborator shall be entitled to use his own work separately and independently.

Article 35

The author of the literary part may dispose thereof for the purpose of its union with some other musical work, only in the following cases:

1) If, after the final text of the manuscript of the literary contribution has been sent to the composer, he does not set it to music within five years in the case of a libretto for an opera or operetta, or within one year in the case of any other literary work to be set to music;

2) if, after having been set to music and considered by the parties as being ready for performance, the work is not performed within the periods specified in the preceding subsection, except as longer periods may be granted for performance in accordance with Articles 139 and 141;

3) if, after a first performance, the work ceases to be performed for a period of ten years in the case of an opera, an oratorio, a symphonic poem or an operetta, or for a period of two years in the case of any other composition.

The composer, in the cases specified in subsections (2) and (3), may make use of the music in other ways.

Article 36

In the case specified in subsection (1) of the preceding Article, the author of the literary part shall reacquire the right of unrestricted disposal thereof, without prejudice to any ultimate action for damages that he may take against the composer.

In the cases specified in subsections (2) and (3), and without prejudice to any action for damages referred to in the preceding paragraph, the community rights as such shall be maintained in respect of the work which has already been set to music, but the work itself may not be performed without the consent of both collaborators.

Article 37

In the case of choreographic works or pantomimes, and in the case of other works consisting of music with words, dancing or mimicry, such as musical reviews and similar works, in which the musical part does not constitute the principal function or value, the exercise of the rights of economic utilization shall, in the absence of agreement to the contrary, belong to the author of the choreographic or pantomimic part, and in the case of musical revues to the author of the literary part.

The provisions of articles 35 and 36 shall apply to these works, subject to the modifications required by the provisions of the preceding paragraph.

SECTION II COLLECTIVE WORKS, MAGAZINES AND NEWSPAPERS

Article 38

In the case of a collective work, the rights of economic utilization shall, in the absence of agreement to the contrary, belong to the publisher of the work, without prejudice to any right deriving from the application of Article 7.

The right to utilize their own contributions separately shall be reserved to the individual collaborators in collective works, provided they observe any subsisting agreements or, in the absence of agreements, the rules set out below.

Article 39

If, without prior agreement, an article is sent to a magazine or newspaper by a person outside the editorial staff, for the purpose of reproduction, the author shall re-acquire the right to dispose of

it unrestrictedly if he does not receive notice of acceptance within one month from notification of such acceptance.

In the case of an article furnished by a member of the editorial staff, the director of the magazine or newspaper may defer reproduction beyond the periods indicated in the preceding paragraph. However, once the period of six months from the delivery of the manuscript has expired, the author shall be entitled to utilize the article for reproduction in a volume, or in separate form in the case of newspaper, and also in any other periodical in the case of a magazine.

Article 40

In the absence of agreement to the contrary, the collaborator, in a collective work other than a magazine or newspaper, shall be entitled to have his name appear in the customary manner in the reproduction of his work.

In the absence of agreement to the contrary, such a right shall not belong to the editorial staff of newspaper.

Article 41

Without prejudice to the application of the provisions of Article 20, the director of a newspaper shall, in the absence of agreement to the contrary, be entitled to introduce into an article submitted for reproduction such modifications of form as are required by the nature and objects of the newspaper.

In articles to be reproduced without indication of the name of the author, this right shall extend to the omission or reduction of parts of the said article.

Article 42

The author of an article or other work reproduced in a collective work shall be entitled to reproduce it in separate form, or to include it in a volume, provided he indicates the collective work from which it has been taken and the date of publication.

In the case of articles appearing in magazines or newspapers, the author shall, in the absence of agreement to the contrary, also have the right to reproduce them in other magazines or newspapers.

Article 43

The publisher or director of magazine or newspaper shall not be compelled to preserve or to return the manuscripts of unreproduced articles which have been sent to him without his request.

SECTION III CINEMATOGRAPHIC WORKS

Article 44

The author of the subject, the author of the scenario, the composer of the music and the artistic director shall be considered as co-authors of a cinematographic work.

Article 45

Within the limits indicated in the following Articles, the exercise of the rights of economic utilization of a cinematographic work shall belong to the person who has organized the production of the said work.

The person who is indicated in the cinematographic film as the producer shall be deemed to be the producer of the cinematographic work. If the work is registered according to the second paragraph of Article 103, the presumption established by the said Article shall prevail.

Article 46

The exercise of the rights of economic utilization belonging to the producer shall have as its object the cinematographic exploitation of the work produced.

In the absence of agreement to the contrary, the producer shall not make or show elaborations, transformations or translations of the produced work without the consent of the authors indicated in Article 44.

The authors of music, of musical compositions and of the words which accompany music shall be entitled to collect directly from persons publicly showing the work a separate payment in respect of such showing. In the absence of agreement between the parties, the payment shall be fixed according to the provisions of the Regulations.

The authors of the subject and of the scenario and the artistic director, in cases where they are not remunerated upon the basis of a percentage of the receipts derived from public showing of the cinematographic work, shall, in the absence of agreement to the contrary, be entitled to receive an additional payment when the receipts have attained a level to be fixed by contract with the producer. The form and amount of such payment shall be fixed by agreement between the categories of persons interested.

Article 47

The producer shall have the right to make such modifications in works utilized in a cinematographic work as are necessary for their cinematographic adaption.

In the absence of agreement between the producer and one or more of the authors referred to in Article 44 of this Law, the question whether modifications effected or to be effected in a cinematographic work are necessary shall be decided by the Chairman of the Council of Ministers in accordance with the rules contained in the Regulations.

The findings of the College shall be final.

Article 48

The authors of a cinematographic work shall be entitled to have their names, together with an indication of their professional functions and of their contributions, mentioned in the showing of a cinematographic work.

Article 49

The authors of the literary or musical parts of a cinematographic work may reproduce them or utilize them separately in any manner, provided no damage is thereby occasioned to the rights of utilization the exercise of which belongs to the producer.

Article 50

If the producer fails to complete the cinematographic work within a period of three years from the delivery of the literary or musical parts, or does not show the completed work within three years from its completion, the authors of the said parts shall be entitled to dispose unrestrictedly of the work itself.

Section IV WORKS BROADCAST

Article 51

By reason of the nature and purpose of broadcasting as a service reserved to the State, which carries on such service either directly or by means of concession, the exclusive right of broadcasting, either directly or by any intermediate means, shall be regulated by the following special provisions.

Article 52

Under the conditions and within the limits indicated in this and the following Articles, the organization which carries on the broadcasting service shall be entitled to broadcast intellectual works from theatres, concert halls or in any other public place.

Proprietors, impresarios, and all persons involved in the performance, shall be required to permit such installations and technical tests as may be necessary in preparation for the broadcast.

The consent of the author shall be required for the broadcasting of new works and for the first performance in any given season of works which are not new.

A theatrical work which has been publicly performed in three different theatres or other public places shall not be deemed to be new.

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Article 53

Where the season for theatrical performances or concerts is not less than two months, the right of the organization indicated in the preceding Article may be exercised once a week in respect of theatrical performances, and once for each five concerts or fractional part thereof.

The duration of a theatrical or concert season shall be understood to be the season specified in notices or programs published before the commencement of the season.

Article 54

The task of ascertaining whether broadcasts comply with proper technical standards shall be the exclusive duty of the State organizations responsible for the supervision of broadcasting and having the powers conferred by Article 2 of Royal Decree Law of June 14, 1923, No. 1352, and of Article 2 of Royal Decree Law of February 3, 1936, No. 654, converted into the Law of June 4, 1936, No. 1552.

The name of the author and the title of the work shall be broadcast at the same time as the work itself.

Article 55

Without prejudice to the rights of the author in connection with the broadcasting of his work, the organization carrying on the broadcasting service is authorized to record the said work upon a record or metal tape or by some analogous process, for the purpose of its deferred road cast, when this is necessitated by considerations of time or technology, provided that after its use, the said recording is destroyed or rendered unusable.

Article 56

The author of a work broadcast in accordance with the preceding Articles shall be entitled to obtain from the organization carrying on the broadcasting service the payment of remuneration, the amount of which in the case of disagreement between the parties, shall be settled, by judicial authority.

Application may only be made to the judicial authority after an effort of conciliation made in the manner and form established by the Regulations.

Article 57

The amount of remuneration shall be based upon the number of transmissions.

The Regulations shall determine the criteria for establishing the number and manner of deferred or repeated transmissions.

Article 58

The author shall be entitled to equitable remuneration for the performance in public establishments of broadcast works by means of sound radio receivers equipped with loudspeakers, the amount being determined periodically by agreement between the Società Italiana Autori ed Editori (S.I.A.E.) and the representatives of the competent syndical association.

Article 59

The broadcasting of intellectual works from the premises of the organization carrying on the broadcasting service shall be subject to the consent of the author, in accordance with the provisions contained in the third Chapter of this Part; the provisions of the foregoing Articles, except those of Article 55, shall not be applicable to such broadcasting.

Article 60

The broadcasting organization may, by order of the Chairman of the Council of Ministers make special broadcasts of cultural and artistic propaganda intended for other countries, subject to payment made in accordance with the Regulations.

SECTION V WORKS RECORDED ON MECHANICAL CONTRIVANCES

Article 61

The author shall have the exclusive right, within the meaning of the provisions of Section I of Chapter III of this Part:

(1) to adapt and record the work upon phonograph records, cinematographic films, metal tapes, or any analogous material or mechanical contrivance for reproducing sounds or voices;

(2) to reproduce, to distribute, to lease, to lend as well as to authorize lease and loan of copies of the work adapted or recorded as above;

(3) to perform in public and to broadcast the work by means of the record or other mechanical contrivance indicated above.

The assignment of the right of reproduction or of the right of commercial circulation shall not, in the absence of agreement to the contrary, include assignment of the right of public performance or of broadcasting.

Insofar as concerns broadcasting, copyright shall be governed by the provisions contained in the preceding Section.

Article 62

Copies of a phonograph record or of any like contrivance for reproducing sounds or voices in which an intellectual work has been recorded shall not be commercially distributed unless they bear, in an indelible manner, the following indications:

- (1) the title of the work reproduced;
- (2) the name of the author;
- (3) the name of the performing artist. Orchestral or choral groups shall be indicated by their customary name;
- (4) the date of production.

Article 63

The record or like Contrivance must be made or utilized in such a manner that the moral right of the author is respected within the terms of Articles 20 and 21 of this Law.

Modifications of a work necessitated by the technical requirement of recording shall be considered lawful.

Article 64

Any concession permitting a national establishment which issues phonograph records to utilize the matrices of the state Record Library (Discoteca di Stato) for the purpose of making records to be distributed for sale, whether in Italy or abroad, within the terms of Article 5 of the Law of February 2, 1939, No. 467, containing provisions for the reorganization of the State Record Library, shall, insofar as the works recorded are protected works, be subject to the payment of royalties in accordance with the provisions of the Regulations.

SECTION VI Computer programs

Article 64bis

Without prejudice to the provisions of articles 64 ter and 64 quater, the exclusive rights conferred by this law regarding computer programs shall include the right to perform or authorize:

- a) reproduction, whether permanently or temporarily, partially or totally, of the computer program by whatever means or in whatever form. Insofar as such operations as the loading, the visualisation, execution, transmission or storage of computer programs require reproduction, they shall be performed subject to authorization by the person entitled to the aforesaid rights;
- b) translation, adaptation, transformation and any other modification of the computer program, as well as reproduction of the work resulting therefrom, without prejudice to the rights of the person who modifies the said program;
- c) any form of distribution to the public, including lease, either of the original computer program or of copies thereof. With the first sale of a copy of the program performed within the European Economic Community by the person entitled to the said rights, or with the latter's consent, there shall cease to exist the right of distribution of the aforesaid copy within the countries of the ECC, except for the right to supervise any further lease of the program or of a copy thereof.

Article 64ter

In the absence of any contrary stipulation, the authorization by the copyright holder shall not apply to the activities as per subheadings a) and b) of article 64 bis, whenever such activities are necessary for the program to be used, in conformity with its purposes, by the person who legally purchased it, including for the correction of errors.

Whoever is entitled to use a copy of the computer program may not be prevented by contract to make a backup copy of the selfsame program where this is necessary for its use.

Whoever is entitled to use a copy of the computer program may, without being authorised by the copyright holder, evaluate, study or test the operation of such program in order to identify ideas and principles underlying each component of the selfsame program, provided he carries out such acts in the course of operations of loading, visualization, execution, transmission or storage of the program which he is entitled to perform. Any contractual agreements infringing the provisions of this paragraph shall be void.

Article 64quater

No authorization by the copyright holder shall be required if the reproduction of the program code and translation of its form as per subheadings a) and b) of article 64 bis, carried out to modify the code form, are necessary to obtain the information allowing a program developed autonomously to be interfaced with other types of programs, provided that

- a) the aforesaid activities are carried out by the licensee or by another entitled to use a copy of the program or, on behalf of the latter, by a person authorised to do so;
- b) the persons as per subheading a) cannot already access, easily and rapidly, the information required to allow interfacing.
- c) the aforesaid activities concern exclusively those components of the original program which are necessary to allow interfacing.

The provisions as per paragraph 1 shall preclude that the information obtained through their implementation:

- a) be used for purposes other than the interfacing of a program developed autonomously;
- b) be communicated to third parties, without prejudice to the need to allow interfacing of the program developed autonomously;
- c) be used for developing, producing or commercializing a computer program which is basically similar, as to the form of its expression, to the aforesaid one, or for any further activities infringing copyright.

Any contractual agreements infringing paragraphs 1 and 2 shall be void.

Pursuant to the Berne Convention for the protection of Literary and Artistic Works, ratified and enforced by law no. 399 of June 20, 1978, the provisions of this article may not be construed so as to let their application be unduly prejudicial to the lawful interests of the copyright holder, or in conflict with the customary utilization of the program.

CHAPTER V FREE UTILIZATION Article 65

Articles of current interest of an economic, political or religious character, published in magazines or newspapers, may be freely reproduced in other magazines or newspapers, or may be broadcast, unless such reproduction is expressly reserved, provided an indication is given of the magazine or newspaper from which they are taken, the date and the number of the said magazine or newspaper and, in the case of a signed article, the name of the author.

Article 66

Discourses upon matters of political or administrative interest delivered in public assemblies or in any other public manner may be freely reproduced in magazines or newspapers, as well as broadcast, provided an indication of the source is given, together with the name of the author and the date and place in which the discourse was delivered.

Article 67

Works or portions of works may be reproduced for use in judicial or administrative proceedings, provided an indication is given of the source or of the name of the author.

Article 68

The reproduction of single works or of portions of works for the personal use of readers, when made by hand or by a means of reproduction unsuitable for circulating or diffusing the work in public, shall be free.

The photo-copying of works existing in libraries, when made for personal use or for the services of the library, shall be free.

The circulating of such copies in public and, in general, any use thereof in competition with the rights of economic utilization belonging to the author shall be forbidden.

Art. 69 (1)

Loans granted by libraries and record libraries pertaining to the State or to public authorities, exclusively for purposes of cultural promotion and personal study, shall not require authorization by the person entitled to the relevant right, to whom no remuneration shall be due, and shall exclusively concern:

- a) printed copies of the works, except for music scores;
- b) phonograms and videograms containing cinematographic or individual works or sequences of motion picture, with or without soundtrack, provided at least eighteen months have elapsed since the first act of exercise of the right of distribution.

Article 70

The abridgment, quotation or reproduction of fragments or parts of a work for the purpose of criticism or discussion, or for instructional purposes, shall be free within the limits justified for such purposes, provided such acts do not constitute competition with the economic utilization of the work.

In anthologies for scholastic use, reproduction shall not exceed the extent specified in the Regulations, which Regulations shall also fix the manner for determining equitable remuneration in respect of such reproduction.

The abridgment, quotation or reproduction must always be accompanied by a mention of the title of the work, and of the names of the author, the publisher and, in the case of a translation, the translator, provided such indications appear upon the basic work.

Article 71

Musical groups and bands of the armed forces of the State may perform musical pieces or portions of musical works in public without payment of any fees in respect of copyright, provided the performance is not for profit.

PART II PROVISIONS CONCERNING RIGHTS CONNECTED WITH THE EXERCISE OF COPYRIGHT

CHAPTER 1 RIGHTS RELATING TO THE PRODUCTION OF PHONOGRAPHIC RECORDS AND OF SIMILAR CONTRIVANCES

Article 72

Without prejudice to the rights granted to the author pursuant to Part I of this Law, the producer of a phonographic record or of any other similar contrivance for reproducing sounds or voices shall have the exclusive right, for the period and under the conditions laid down in the following articles, to reproduce, by whatever duplication process, and distribute the said record or contrivance of his production. The right of distribution shall not be limited to the territory of the European Union, unless the first sale of the phonogram was carried out or authorized by the producer in a country of the European Union.

Article 73

The producer of the phonographic record or of any similar contrivance for reproducing sounds or voices, as well as the artists who interpreted or performed the interpretation or the performance recorded or reproduced on the said contrivances, shall be entitled, independently of the rights of distribution, lease and loan pertaining to them, to remuneration in exchange for the utilization, for purposes of gain, of the record or of the similar contrivance through broadcasting, cinematography, television, in public dancing parties, in public premises and on the occasion of any further public utilization of the said contrivances.

The producer shall be entitled to exercise the aforesaid right, and shall share out the remuneration among the artists who acted, interpreted or performed the work.

Except when agreed otherwise by the parties, the said remuneration shall be calculated, paid and distributed pursuant to the Regulation.

The amount of such remuneration and the shares of distribution, as well as the relative formalities, shall be determined according to the provisions of the regulations.

No remuneration shall be required in respect of the utilization for instructional or propaganda purposes by the State administration, or by institutions authorized by the State for such purposes.

Art. 73-bis

The artists who interpret or perform and the producer of the phonogram which was utilized shall be entitled to fair remuneration including when the utilization as per article 73 was not effected for purposes of gain.

Except when agreed otherwise by the parties, the said remuneration shall be calculated, paid and distributed pursuant to the Regulation.

Article 74

The producer shall be entitled to oppose any utilization of a record or contrivance for producing sounds or voices, as specified in the preceding Article, if effected under conditions of such a nature as seriously to prejudice his industrial interests.

Upon application of the interested party, the "Office of the Chairman of the Council of Ministers pending a decision of the judicial authority, may nevertheless authorize the use of the record or like contrivance for reproducing sounds or voices, after technical investigation and the ordering, where necessary, of steps to eliminate any factors which would detract from the standard of the performance.

Article 75

The duration of the rights specified in this Chapter shall be thirty years from the date of the deposit effected according to Article 77, and shall not exceed forty years from the date of making of the original record or like contrivance for reproducing sounds or voices.

In the case of non effected deposit, according to the second paragraph of the article 77, the duration of the rights shall be thirty years from the date of marking of the original record.

Article 76

Copies of a phonograph record or like contrivance for reproducing sounds or voices shall not be commercially distributed unless they bear, indelibly imposed upon the said record or contrivance, the indications specified in Article 62, insofar as they are applicable.

Article 77

The rights specified in this chapter may be exercised if deposit has been effected with the Office of the Chairman of the Council of Ministers, according to the provisions of the Regulations, of one copy of the record or analogous contrivance.

Nevertheless the formality of deposit prescribed in the first paragraph, as condition to exercise the rights that belong to producer, shall be considered as fulfilled if the mark (P) accompanied by the indication of the year of first Publication is firmly printed upon all specimens of record or analogous contrivance.

Article 78

The person who, by direct recording of sounds or voices, undertakes the making of the original record or like contrivance for reproducing sounds or voices, shall be considered the producer.

The place of production shall be considered to be that in which the direct original recording was effected.

CHAPTER I bis RIGHTS OF PRODUCERS OF CINEMATOGRAPHIC OR AUDIOVISUAL WORKS OR OF SEQUENCES OF MOTION PICTURES

Article 78bis

The producer of cinematographic or audiovisual works or of sequences of motion pictures shall have the exclusive power;

- a) to authorize reproduction, whether direct or indirect, of the original works and of the copies thereof;
- b) to authorize distribution, by whatever means including by sale, of the original works and of the copies thereof; the right of distribution shall not be limited to the territory of the European Union, unless the first sale was effected or authorized by the producer in a country belonging to the European Union;
- c) to authorize lease and loan of the original works and of the copies thereof; sale or distribution, in whatever form, shall not limit the right of lease and loan.

The rights as per paragraph 1 shall cease to exist only after twenty years have elapsed since the end of the calendar years in which the recording was effected.

CHAPTER II RIGHTS RELATING TO BROADCAST EMISSIONS

Article 79

Without prejudice to the rights granted by this law to authors, to producers of phonographic records and similar contrivances, to producers of cinematographic or audiovisual works or of sequences of motion pictures, to artists who interpret or perform, those subject carrying

out broadcasting activities by radio or television shall have the exclusive power:

- a) to authorize the recording of broadcasts effected by wire or air: this right shall not be granted to cable distributors who rebroadcast, by cable, the broadcasts of other broadcasting organization;
- b) to authorize reproduction, whether direct or indirect, of the recordings of their communication to the public provided the latter is carried out in a place which is accessible upon payment of an entrance fee;
- d) to authorize distribution of the recordings of their own broadcasts as well as their communication to the public provided the latter is carried out in a place which is accessible upon payment of an entrance fee;
- d) to authorize distribution of the recording of their own broadcasts: this power shall not be limited to the territory of the European Union unless the first sale was effected or allowed by the person having the said power in a country of the European Union.

The subjects as per paragraph 1 shall also have the exclusive right of utilization of the recordings of their own broadcasts for further broadcasts or rebroadcasts or for further recordings.

‘Broadcasts’ shall mean broadcasts by radio and television.

‘By wire or air’ shall include broadcasts by cable and via satellite.

The rights as per paragraph 1 shall continue for twenty years since the end of the calendar year in which the first diffusion of a broadcast was effected.

Article 80

Artists who interpret or perform shall be all those actors, singers, musicians, dancers and any other persons who play, sing, recital, or performs, in whatever manner, intellectual works, whether protected or of public domain.

The artists who interpret or perform shall have the exclusive power, regardless of any remuneration to which they may be entitled for their live artistic performances:

- a) to authorize recording of their artistic performances;
- b) to authorize reproduction, whether direct or indirect, of the recordings of their artistic performances;
- c) to authorize broadcasting by air and communication to the public, in whatever form and manner, of their live artist performances, unless the latter were intended for broadcasting by radio or television or are already the subject or a recording for broadcasting purposes. If the recording is represented by a phonographic record or any similar contrivance, and where it is utilized for purposes of gain, the artists who interpret or perform shall of entitled to the remuneration as per article 73; if the recording is not utilized for purposes of gain, the artists who interpret or perform shall be entitled to the fair remuneration as per article 73-bis;
- d) to authorize distribution of the recordings of their artistic performances: this right shall not be limited to the territory of the European Union, unless the first sale was effected by the person having the aforesaid right, or with the latter’s consent, in a country of the European Union;

- e) to authorize lease or loan of the recordings of their artistic performances and of the reproductions thereof: the artists who interpret or perform shall retain, even when granting the right of lease to a producer of phonograms or cinematographic or audiovisual works or of sequences of motion pictures, the right to obtain fair remuneration for the lease contracts made by the said producer with third parties. Any contrary stipulation shall be void.

Article 81

Artists who act, interpret or perform shall be entitled to oppose any diffusion transmission or reproduction of their recitation or performance which might be prejudicial to their honor or reputation.

The provisions of the second paragraph of Article 74 shall be applicable.

Insofar as broadcasting is concerned, disputes arising from the application of this Article shall be regulated according to the provisions of the first paragraph of Article 54.

Article 82

For the purposes of the application of the foregoing provisions the following shall be included within the definition of artists who act, interpret or perform:

(1) persons who, in [the performance of] any dramatic, literary or musical work or composition, play an important artistic part, even if subsidiary to the leading performers;

(2) the conductors of an orchestra or choir;

(3) entire orchestras or choirs, provided that the orchestral or choral part [of the performance] has artistic value in itself and is not a mere accompaniment.

Article 83

Artists who act, interpret or perform the leading parts in a dramatic, literary or musical work or composition shall be entitled to have their names indicated in the diffusion or transmission of their recitation or performance and applied in an indelible manner to any phonograph record, cinematographic film or other like contrivance.

Art. 84

Unless where agreed otherwise by the parties, it is presumed that the artists who interpret or perform alienated their right to authorize lease at the time of stipulation of a contract for the production of a cinematographic or audiovisual work or of a sequence of motion pictures, without prejudice to the right to fair remuneration as per para.5 of article 18-bis of this law.

Unless where agreed otherwise by the parties, it is presumed that the artists who interpret or perform alienated their rights of recording, reproduction, broadcasting and distribution at the time of stipulation of a contract for the production of a cinematographic or audiovisual work or of sequences of motion pictures.

The fair remuneration as per paragraph 1 shall be determined pursuant to the provisions of the Regulation.

Article 85

The rights as per this Chapter shall continue for twenty years since the end of the calendar year in which the performance, the representation or the recitation took place.

CHAPTER IV RIGHTS RELATING TO SKETCHES OF THEATRICAL SCENES

Article 86

The author of sketches of theatrical scenes which do not constitute an intellectual work covered by copyright within the meaning of the provisions of Part I, shall have a right to remuneration when such sketch is further used in theatres other than that for which it was composed.

This right shall continue for five years from the first performance in which the sketch was used.

CHAPTER V RIGHTS RELATING TO PHOTOGRAPHS

Article 87

Pictures of persons, or of aspects elements or features of natural or social life, obtained by photographic or analogous processes, including reproductions of works of graphic art and stills of cinematographic film, shall be considered to be photographs for the purposes of the application of the provisions of this Chapter.

Photographs of writings, documents, business papers, material objects, technical drawings and similar products shall not be so considered.

Article 88

The exclusive right of reproduction, diffusion and circulation of a photograph shall, subject to the provisions of Section II of Chapter VI of this Part insofar as portraits are concerned, and without prejudice to any copyright in works of graphic art reproduced in photographs, belong to the photographer.

However, if the work has been produced in the course of the fulfillment of a contract of employment or of work then, within the limits of the object and purpose of the contract, the exclusive right shall belong to the employer.

In the absence of agreement to the contrary, the same shall apply in favor of the person who commissions photographs of objects in his possession, subject to the payment of an equitable remuneration to the photographer by any person who commercially utilize the reproduction.

The Chairman of the Council of Ministers' in accordance with the provisions specified in the Regulation, fix suitable rates for the remuneration to be paid by any person who so utilizes the photograph.

Article 89

In the absence of agreement to the contrary, transfer of the negative or similar means of reproduction of a photograph shall involve transfer of the rights referred to in the foregoing Article, provided that such rights are the property of the transferor.

Article 90

The copies of the photograph must bear the following indications:

(1) the name of the photographer or, in cases of the kind referred to in the first paragraph of Article 88, the name of the firm to which he belongs, or of the person who commissioned the photograph;

- (2) the year of production of the photograph;
- (3) the name of the author of the work of art which has been photographed.

When the copies do not bear the said indications, their reproduction shall not be deemed wrongful and the remuneration specified in Articles 91 and 98 shall not become due unless the photographer proves bad faith on the part of the reproducer.

Article 91

The production of photographs in anthologies destined for scholastic use and, in general, in scientific or didactic works, shall be lawful, subject to the payment of equitable remuneration which shall be determined in the manner provided in the Regulations.

In any reproduction, the name of the photographer and the year of making shall be indicated if such are given upon the photograph which has been reproduced.

The reproduction of photographs published in newspapers or other periodicals, and which concern persons or current events or matters of public interest, shall be lawful, subject to the payment of equitable remuneration.

The provisions of the final paragraph of Article 88 shall be applicable.

Article 92

The exclusive right in respect of photographs shall continue for twenty years from the making of the photograph.

CHAPTER VI RIGHTS RELATING TO LETTERS AND PORTRAITS

SECTION I RIGHTS RELATING TO LETTERS

Article 93

Letters, collections of letters, family and personal memoranda and other writings of a like nature, having a confidential character or associated with the intimacy of private life, may not be published, reproduced, or in any manner brought to the knowledge of the public without the consent of the author and, in the case of letters and collections of letters, the consent also of the addressee.

After the death of the author or of the addressee, the consent of the spouse and children or, if none exist, the consent of the parents, shall be required; if there is no spouse, child or parent the consent of the brothers and sisters or, if none exist, the consent of the direct ascendants and descendants to the fourth degree, shall be required.

When the persons indicated in the preceding paragraph are two or more in number and disputes arise between them, the judicial authority shall decide the matter, after having heard the public prosecutor.

The wishes of the deceased person, when expressed in writing, shall in all cases be respected.

Article 94

The consent indicated in the foregoing Article shall not be necessary when knowledge of the contents of such written matter is required for the purposes of civil or penal proceedings, or in connection with the defense of the honor or reputation of the person or family concerned.

Article 95

The provisions of the preceding Articles shall apply also to letters constituting works protected by copyright, even after they have fallen into the public domain. Such provisions shall not apply to official documents and letters and to documents and letters of interest to the State.

SECTION II RIGHTS RELATING TO PORTRAITS

Article 96

Subject to the provisions of the following Article, the portrait of a person may not be displayed, reproduced or commercially distributed without the consent of such person.

After the death of the person portrayed, the provisions of the second third and fourth paragraphs of Article 93 shall be applicable.

Article 97

The consent of the person portrayed shall not be necessary when the reproduction of the portrait is justified by his notoriety or his holding of public office, or by the needs of justice or the police, or for scientific, didactic, or cultural reasons, or when reproduction is associated with facts, events and ceremonies which are of public interest or have taken place in public.

The portrait may not, however, be displayed or commercially distributed when its display or commercial distribution would prejudice the honor, reputation or dignity of the person portrayed.

Article 98

In the absence of agreement to the contrary, a commissioned photographic portrait may be published, reproduced, or caused to be reproduced by the person photographed or by his heirs or successors in title, without the consent of the photographer, subject to the payment of equitable remuneration to the photographer by any person making commercial use of the reproduction.

If the name of the photographer appears upon the original photograph such name must be indicated.

The provisions of the last paragraph of Article 88 shall be applicable.

CHAPTER VII RIGHTS RELATING TO ENGINEERING PROJECTS

Article 99

The author of engineering projects and other analogous works which constitute original solutions of technical problems shall in addition to the exclusive right of reproduction of the plans and drawings of the actual projects have the right to equitable remuneration from any person who, with gainful intent and without the consent of the author, realizes the technical project concerned.

In order to exercise his right to remuneration, the author must insert upon the plan or drawing a declaration of reservation of the right and must deposit the plan or drawing with the Office of the Chairman of the Council of Ministers' in accordance with the provisions of the Regulations.

The right to remuneration provided by this Article shall continue for twenty years from the date of the deposit prescribed in the second paragraph.

CHAPTER VIII PROTECTION OF THE TITLE, HEADINGS AND EXTERNAL APPEARANCE OF WORKS, AND OF ARTICLES AND NEWS.

PROHIBITION OF CERTAIN ACTS OF UNFAIR COMPETITION

Article 100

The title of a work, when it uniquely identifies the work, may not be reproduced in connection with any other work without the consent of the author.

This prohibition shall not extend to works which are of a kind or character so far removed as to exclude all possibility of confusion.

The reproduction of headings used in periodical publications to give unique identification to the normal and characteristic features appearing thereunder, shall, under like conditions, also be prohibited.

The title of a newspaper, magazine or other periodical publication may not be reproduced in other works of the same kind or character unless two years have expired since cessation of its publication.

Article 101

The reproduction of information and news shall be lawful, provided it is not effected by way of acts which are contrary to fair practice in journalism, and provided the source is given.

The following shall be deemed to be unlawful acts:

- (a) the reproduction or the broadcasting, without authorization, of bulletins of information distributed by press or information agencies, before the lapse of sixteen hours from the distribution of the actual bulletins and, in any case, before their publication in a newspaper or other periodical authorized by such agency. For this purpose and in order for the said agencies to have a right of action against persons who make unlawful utilization, bulletins must bear a precise indication of the day and hour of their issue;
- (b) the systematic reproduction of published or broadcast information or news, with gainful intent, by newspapers or other periodicals or by broadcasting organizations.

Article 102

The reproduction or imitation of other works of a like kind, or of headings, emblems, ornamentations, arrangements of printing signs or characters, or any other particularity of form or color in the external appearance of an intellectual work, when the said reproduction or imitation is capable of creating confusion between works or authors, shall be forbidden as an act of unfair competition.

PART III COMMON PROVISIONS

CHAPTER I PUBLIC REGISTERS AND DEPOSIT OF WORKS

Article 103

A general public register of works protected by this Law shall be established in Office of the Chairman of the Council of Ministers. The S.I.A.E. shall be responsible for the maintenance of a special public register for cinematographic works.

Works which are subject to the requirement of deposit shall be registered in the said registers, together with an indication of the name of the author, the producer, of the date of publication and other particulars specified in the Regulations.

The S.I.A.E. shall further be in charge of the keeping of a special public register for computer programs. In the said register there shall be registered the name of the person to whom the

exclusive rights of economic utilization belong and the release date of the program - release meaning the first act of exercise of the said exclusive rights.

In the absence of proof to the contrary, registration shall be accepted as proof of the existence of the work and of the fact of its publication. The authors and producers indicated in the register shall be deemed, in the absence of proof to the contrary, to be the authors and producers of the works attributed to them. In the case of cinematographic works, the presumption shall be applicable to the annotations made in the Register and referred to in the second paragraph.

The keeping of the public registers shall be governed by the Regulations.

The registers as per this article may be kept by using computer equipments and instrumentation.

Article 104

At the instance of the interested party legal instruments executed between living persons, transferring in whole or in part rights recognized by this Law, or establishing rights of enjoyment or guarantee thereof, as well as instruments serving to divide or to associate such rights, may also be registered in the form prescribed by the Regulations.

Such registration shall also have such legal or administrative effects as the provisions of this Law or other special laws accord to registration.

Article 105

The authors and producers of works and products protected by this Law, or their successors in title, shall deposit with the Office of the Chairman of the Council of Ministers one specimen or copy of the work or product, within the period and in the manner specified in the Regulations.

In the case of dramatico-musical or symphonic works of which the orchestral parts have not been printed, it shall be sufficient to deposit one copy or specimen of the version for voice and piano or for piano only.

With respect of computer programs, the said deposit shall be optional and subject to charge.

Photographs shall not be subject to the obligation of deposit, except as provided in the second paragraph of Article 92.

Article 106

Failure to deposit shall not prejudice the acquisition or exercise of copyright in respect of works protected under the provisions of Part I of this Law, or under the provisions of international conventions subject, however, in the case of foreign works, to the application of Article 188 of this Law.

The omission of a deposit required in Part II of this Law shall prevent the acquisition or exercise of rights in respect of the works specified in that Part and to the extent specified therein.

The Chairman of the Council of Ministers shall be entitled to seize a specimen or copy of a work which has not been deposited as required by the Regulations.

CHAPTER II

TRANSFER OF THE RIGHTS OF UTILIZATION

SECTION 1 GENERAL RULES

Article 107

The rights of utilization belonging to the authors of intellectual works, as well as the connected rights having a patrimonial character, may be acquired, alienated or transferred under all methods and forms allowed by law, subject to the application of the rules contained in this Chapter.

Article 108

An author who has attained the age of 16 shall be deemed capable of fulfilling all legal acts relating to works created by him, and of instituting any action in respect thereof.

Article 109

In the absence of agreement to the contrary, the transfer of one or more copies of the work shall not involve transfer of the rights of utilization provided for in this Law.

However, the transfer of a mold, an engraved plate or any similar medium used to reproduce a work of art shall, in the absence of agreement to the contrary, be deemed to include the right to reproduce the work provided such right belongs to the transferor.

Article 110

The transfer of rights of utilization must be established in writing.

Article 111

The right of publication of an intellectual work and the rights of utilization of a published work, insofar as they belong personally to the author, may not be the subject of any pledge seizure or sequestration, either by contractual act or by way of forced execution.

Copies of the work and the proceeds of utilization may, on the other hand, be the subject of a pledge, or be seized or sequestered, according to the rules of the Code of Civil Procedure.

Article 112

The rights belonging to the author, with the exception of the right to publish a work during his lifetime, may be expropriated for reasons of State interest.

Article 113

Expropriation shall be authorized by Presidential Decree at the instance of the Chairman of the Council of Ministers acting in conjunction with the Minister of Public Instruction and in consultation with the Council of State.

The indemnity due to the dispossessed person shall be specified in the decree of expropriation or in a subsequent decree.

The decree shall have executive force against successors in title and as against third parties who are the holders of physical objects necessary for the exercise of the expropriated rights.

Article 114

Recourse before the Council of State in its judicial capacity shall be admitted against a decree of expropriation for reasons of State interest; but disputes concerning the amount of the indemnity shall be within the competence of the ordinary courts.

SECTION II TRANSMISSION CAUSA MORTIS

Article 115

After the death of the author, the rights of utilization of the work, if not otherwise disposed of by the author himself shall remain undivided between the heirs for a period of three years from the date of death, unless the judicial authority, at the instance of one or more of the co-heirs, agrees, for serious reasons, that division shall be effected without delay.

When the said period has expired, the heirs may, by common accord, decide that the rights shall continue to be held in common for such period as may be fixed by them, within the limits specified by the provisions contained in the Codes.

Such community shall be regulated by the provisions of the Civil Code and by those which follow.

Article 116

The administration and representation of the community interests shall be conferred upon one of the co-heirs, or upon some person outside the succession.

If the co-heirs fail to appoint an administrator, or if they do not agree upon such appointment within one year from the effective date of the succession, the administration shall, upon the request of one of the co-heirs or of the S.I.A.E. be conferred upon the S.I.A.E. by decree of the tribunal of the place where probate was granted.

The same procedure shall be followed in the case of the appointment of a new administrator.

Article 117

The administrator shall take charge of the management of the rights of utilization of the work.

He shall not, however, authorize new editions, translation or their elaborations, nor the adaptation of the work to cinematography, broadcasting, or recording upon mechanical contrivances, except with the consent of heirs representing more than half of the value of the estate, and subject to such measures as may be taken by the judicial authority to safeguard the minority in accordance with the rules of the Civil Code relating to communities.

SECTION III PUBLISHING CONTRACTS

Article 118

The contract by which the author grants to a publisher this exercise of the right of publication of an intellectual work by way of printing, for the account and at the cost of such publisher, shall be regulated apart from the special provisions contained in the Codes, by the general provisions of this Chapter and by the special provisions which follow.

Article 119

The contract may have for its object all the rights of utilization which belong to the author within the field of publication, or certain of them, with such provisions and for such duration as may be provided by the laws in force at the time of the contract.

In the absence of a stipulation to the contrary, it shall be presumed that the rights transferred are exclusive.

Future rights which may be granted by subsequent laws and which involve protection of copyright wider in scope or longer in duration cannot be included [in the transfer].

In the absence of an express stipulation, alienation shall not extend to the rights of utilization in later elaborations and transformations to which the work may lend itself, including adaptations to cinematography, broadcasting, and recording upon mechanical contrivances.

In the absence of an agreement to the contrary the alienation of one or more of the rights of utilization shall not imply the transfer of other rights which are not necessarily dependent upon the right transferred, even if, according to the provisions of Part 1, they are included in the same category of exclusive rights.

Article 120

If the contract relates to works which have not at that date been created, the following rules shall be observed:

(1) any contract shall be void which has for its object all the works or all the works of a certain category which the author may create, without limit of time;

(2) without prejudice to the rules governing contracts for works and employment, contracts which relate to the alienation of exclusive rights in respect of works to be created may not extend for a term in excess of ten years;

(3) if the work to be created has been determined, but the term within which such work shall be delivered has not been fixed the publisher may at any time request the judicial authority to fix such term. If the term has been fixed, the judicial authority may extend it.

Article 121

If after a substantial and self-sufficient portion has been completed and delivered, the author should die, or should find himself unable to complete the work, the publisher shall be entitled to elect to regard the contract as rescinded, or upon making a proportionate payment to consider it as having been fulfilled insofar as concerns the delivered portion, unless the author has manifested or manifests a wish that the work should not be published unless entirely completed, or unless such a wish has been expressed by the persons indicated in Article 23.

If cancellation of the contract takes place at the request of the author or his heirs, the uncompleted work may not be assigned to other persons, under penalty of damages.

Article 122

A publishing contract may be based upon the number of editions or upon a certain period of time.

A contract based upon the number of editions shall be deemed to confer upon the publisher the right to make one or more editions during a period of twenty years from the date of delivery of the completed manuscript.

The number of editions and the number of copies of each edition shall be specified in the contract. However, alternatives may be provided for, either in respect of the number of editions and copies, or in respect of the remuneration based thereon.

In the absence of such indications, it shall be understood that the contract has for its object a single edition of not more than 2,000 copies.

A publication contract based upon a period of time shall be deemed to confer upon the publisher the right to produce the number of editions which he may consider necessary within the time specified, which period shall not exceed twenty years, and shall specify a minimum number of copies of each edition, to be produced; in the absence of such indication the contract shall be void. The maximum period of twenty years shall not apply to contracts concerning;

encyclopaedias and dictionaries;

sketches, drawings, vignettes, illustrations, photographs and similar works, for industrial use;

cartographical works;

dramatico-musical and symphonic works.

In both forms of contract, the publisher shall be free to spread the editions over such number of reprints as he may consider suitable.

Article 123

Copies of the work shall be countersigned in accordance with the rules established by the Regulations.

Article 124

If several editions are contemplated by the contract, the publisher shall, within a reasonable advance period, be obliged to notify the author of the probable time of exhaustion of the current edition.

He shall, at the same time, declare to the author whether or not he intends to proceed with a new edition.

If the publisher has declared that he will renounce the making of a new edition, or if, having declared his wish to proceed with a new edition, he does not so proceed within a period of two years from the notification of such declaration, the contract shall be regarded as rescinded.

The author shall be entitled to damages in respect of the non-production of the new edition, unless the publisher shows an adequate justification.

Article 125

The author shall be required;

(1) to deliver the work under the conditions specified in the contract and in form which will not make printing unduly difficult or costly;

(2) to guarantee, for the entire period of the contract, the undisturbed enjoyment of the rights granted.

In addition, the author shall have both the obligation and the right to correct printers' proofs, in accordance with the conditions established by custom.

Article 126

The publisher shall be required:

(1) to reproduce the work and put it into commercial circulation in conformity with the original and according to rules of good publishing practice, with the name of the author, or as an anonymous or pseudonymous work if so provided in the contract;

(2) to pay the stipulated remuneration to the author.

Article 127

The publication or reproduction of the work shall take place within the period fixed by the contract; such period shall not be more than two years from the date of effective delivery to the publisher of the complete and final copy of the work.

If no period is specified in the contract, publication or reproduction of the work shall take place within two years of written request made to the publisher. The judicial authority may, however, fix a shorter period when such is justified by the nature of the work or by any other special circumstance.

Any stipulation renouncing the fixing of a period or specifying a period in excess of the maximum referred to above shall be void.

The maximum period of two years shall not apply to collective works.

Article 128

If a person acquiring the right of publication or reproduction does not effect publication or reproduction of the work within the period specified by the contract or by the judge, the author shall be entitled to demand that the contract be cancelled.

The judicial authority may grant to the person acquiring the right an extension of time, not exceeding one half of the aforesaid period and subject, where necessary, to a suitable guarantee. The judicial authority may also restrict the decision on cancellation to part only of the provisions of the contract.

In the case of total cancellation, the person who acquired the right must return the original of the work and shall be obligated to make good any damage, unless he proves that the failure to publish or reproduce took place despite the exercise of due diligence.

Article 129

Until such time as the work is published by printing, the author may introduce therein any modifications which he considers suitable, provided that they do not alter the character and purpose of the work, and provided he bears any major expenses occasioned by the modifications.

The author shall have the same right in relation to new editions. The publisher shall consult the author on this matter before proceeding with new editions. In the absence of agreement between the parties, the period for carrying out modifications shall be fixed by the judicial authority.

If the nature of the work requires it to be brought up to date prior to any new edition, and the author refuses so to do, the publisher may have it brought up to date by other persons, provided that the new edition shall indicate and distinguish the work of such persons.

Article 130

The remuneration of the author shall consist of a share of the proceeds which, in the absence of agreement to the contrary, shall be calculated upon a percentage basis of the retail price of the copies sold. However, his remuneration may be represented by a lump sum for editions of;

dictionaries, encyclopaedias, anthologies and other works produced in collaboration;

translations, newspaper and magazine articles;

discourses or lectures;

scientific works;

cartographical works;

musical or dramatico-musical works;

works of art.

In contracts providing for the sharing of proceeds the publisher shall be required to render an annual account of copies sold.

Article 131

In publishing contracts, the retail price shall be fixed by the publisher, after prior notice to the author. The author may object to the price fixed or modified by the publisher if it is such as would gravely prejudice the interests of the author or the dissemination of the work.

Article 132

The publisher shall not transfer the rights he has acquired to other persons without the consent of the author unless there is an agreement to the contrary or a change of ownership of the business. However, in the latter event, the publisher may not transfer his rights if such transfer would be prejudicial to the reputation of the author or to the dissemination of the work.

Article 133

If the work does not find a sufficient market at the price fixed, the publisher, before selling the remaining copies below cost price, or as waste, shall ask the author if he wishes to acquire the copies at a price calculated upon the amount obtainable by their sale at such price or as waste.

Article 134

Publishing contracts shall terminate:

- (1) upon expiration of the contractual period;
- (2) when their fulfillment is impossible by reason of the failure of the work;
- (3) when the author dies before completion of the work, subject to the application of the provisions of Article 121;
- (4) when the work cannot be published, reproduced or commercially distributed by reason of a judicial decision or a provision of law;
- (5) in case of cancellation of the contract as provided in Article 128, or in any case specified in Article 133;
- (6) in any case where the work has been withdrawn from commerce according to the provisions of Section V of this Chapter.

Article 135

The bankruptcy of the publisher shall not cause the cancellation of the publishing contract.

The publishing contract shall however, be revoked if the liquidator, within one year of the declaration of bankruptcy, does not continue to carry on the publishing business or does not transfer it to some other publisher under the conditions specified in Article 132.

SECTION IV CONTRACTS FOR PUBLIC PERFORMANCES

Article 136

The contract by which the author grants the right to perform in public a dramatic, dramatico-musical, choreographic, pantomimic or other work destined for performance shall, in addition to the general provisions contained in the Codes, be governed by the general provisions of this Chapter and by the special provisions which follow.

In the absence of provision to the contrary, the grant of any such right shall be neither exclusive nor transferable.

Article 137

The author shall be obliged:

(1) to deliver the text of the work if it has not already been published in printed form;

(2) to guarantee, for the duration of the contract, the undisturbed enjoyment of the rights granted.

Article 138

The grantee shall be obliged:

(1) to perform the work without additions, deletions or variations therein which have not been agreed to by the author, and with previous announcement to the public, in the customary manner, of the title of the work and the name of the author and any translator or arranger of the work:

(2) to allow the author to supervise the performance;

(3) not to change, without serious reasons, the principal interpreters of the work and the directors of the orchestras and choirs, if appointed in agreement with the author.

Article 139

The provisions of Articles 127 and 128 shall apply to the performance of the work except as concerns the period fixed in the second paragraph of Article 127 which, in the case of dramatico-musical works, shall be increased to five years.

Article 140

If the grantee of the right of performance, notwithstanding the request of the author, fails to continue to perform the work after a first performance or a first cycle of performances the author of the musical or literary portion who demonstrates the fault of the grantee shall be entitled to request the cancellation of the contract, with the consequences specified in the third paragraph of Article 128.

Article 141

A contract for the performance of a musical composition shall be governed by the provisions of this Section, insofar as they are applicable to the nature and object of such contract.

SECTION V WITHDRAWAL OF THE WORK FROM COMMERCE

Article 142

The author, whenever serious moral reasons arise, shall be entitled to withdraw the work from commerce, subject to liability to indemnify any persons who have acquired rights to reproduce, diffuse, perform or circulate such work.

This right is personal and is not transmissible.

In order to exercise this right, the author shall notify his intention to the persons to whom he has transferred the said rights, and to the Office of the Chairman of the Council of Ministers shall give public notice of such intention in the manner established by the Regulations.

Within a period of one year from the last date of notification and publication, the interested parties may have recourse to the judicial authority to oppose the exercise of the claim of the author or to obtain liquidation and compensation for damages.

Article 143

The judicial authority, if it finds that the grave moral reasons invoked by the author exist, shall exhibit the reproduction, diffusion, performance or circulation the work, subject to the

payment of an indemnity in favor of the interested parties, and shall fix the amount of such indemnity and the period for its payment.

Before the expiration of the period specified in the final paragraph of the preceding Article, the judicial authority, upon request and if it finds that urgent reasons exist, may provisionally decree such prohibition after such security as it may deem necessary has been furnished.

If the indemnity is not paid within the period fixed by the judicial authority, the effect of the decree shall automatically cease.

The continuation of the reproduction, diffusion, performance or circulation of the work after expiration of the period allowed for recourse to the judicial authority, as specified in the final paragraph of the foregoing Article, or after any decree suspending trading in the work, shall be subject to the civil and penal sanctions of this Law for infringement of copyright.

SECTION VI RIGHTS OF THE AUTHOR IN RESPECT OF INCREASE IN VALUE OF WORKS OF ART

Article 144

The authors of works of art in the form of paintings, sculptures, drawings and prints and the authors of original manuscripts shall be entitled to a percentage of the amount by which the price of the first public sale of original copies of such works and manuscripts exceeds the price of first alienation, and such excess shall be presumed.

The organizer of the sale, the vendor and the purchaser shall, however, be entitled to prove that such public sale was not preceded by any act of alienation for valuable consideration, or that the price of first alienation was not less than that obtained in the public sale.

Article 145

The authors of the works indicated in the preceding Article shall also be entitled to a percentage of the higher value that the original copies of their works ultimately acquire in successive public sales, such higher value being the difference between the price at the last public sale and the price at the public sale which immediately preceded it.

Article 146

The percentages specified in the preceding Articles shall be due only if the selling price is in excess of 1,000 lire in the case of drawings and prints 5,000 lire in the case of paintings, and 10,000 lire in the case of sculptures. The percentages shall be payable by the owner selling the work.

Article 147

If the price of the original copy of the works specified in this Section, at any sale which is not deemed to be public under law, attains 4,000 lire in the case of drawings and prints, 30,000 lire in the case of paintings, and 40,000 lire in the case of sculptures and also exceeds five times the price of first alienation, however effected, such increase in value shall be subject to a payment of 10% to the authors of the works, payable by the owner selling them.

Proof of the price paid for a work and of the conditions specified in this Article shall be the responsibility of the authors.

The percentage shall be reduced to 5% if the vendor proves, in turn, that he acquired the copy at a price not less than half of that realized by him.

The provisions of Article 145 shall apply for the purpose of determining the higher value.

The provisions of this Article shall not apply to anonymous or pseudonymous works, except as provided by Article 8 of this Law in regard to the latter category of works.

Article 148

For the purposes of the protection specified in the foregoing Articles, replicas made by the author shall also be considered as original works, but not reproductions otherwise produced. In respect of prints, those which have been derived from original engravings, signed by the author, shall be considered as original works.

Article 149

For the purposes of this Law, the following shall be considered public sales:

- (a) sales effected at shows and exhibitions, authorized within the meaning of Royal Decree Law of January 21, 1934, No. 454, which became the Law of July 5, 1934, No. 1607;
- (b) sales by court order;
- (c) sales effected by means of public auctions;
- (d) sales of works offered for sale at public auctions, but withdrawn from such offering as the result of private negotiations;
- (e) sales effected in connection with private exhibitions organized or carried out by third parties.

Article 150

The rights specified in Articles 144, 145, 146 and 147 shall belong to the author and, after his death, and in the absence of testamentary provisions, to his spouse and legitimate heirs to the third degree, according to the rules of the Civil Code; if there are no successors as above indicated, the rights shall devolve upon the insurance and assistance fund of the National Authority for Insurance and Assistance of Painters and Sculptors Syndicate of Fine Arts.

Such rights shall continue for the life of the author and fifty years after his death, and may not be the object of alienation or advance renunciation.

Article 151

The percentage due upon the price of the first public sale within the meaning of Article 144 shall be fixed at the level of 1% for amounts up to 50,000 lire; 2% for amounts exceeding that sum and up to 100,000 lire; and 5% for any further excess.

Article 152

The percentages due upon the increase in value determined in accordance with Article 145 shall be fixed as follows:

- 2% for increases in value not exceeding 10,000 lire
- 3% for increases in value in excess of 10,000 lire
- 4% for increases in value in excess of 30,000 lire
- 5% for increases in value in excess of 50,000 lire
- 6% for increases in value in excess of 75,000 lire
- 7% for increases in value in excess of 100,000 lire
- 8% for increases in value in excess of 125,000 lire

9% for increases in value in excess of 150,000 lire

10% for increases in value in excess of 175,000 lire

Article 153

The person who legally presides over the public sale of works of art referred to in this Section shall be obliged to deduct from the sale price of original copies the percentages due within the meaning of Articles 144 and 145 and to pay such amount to the S.I.A.E. under the conditions specified in the Regulations.

Until such time as the payment is effected the person who presides at the sale shall, for the purposes of law, be deemed to be the depository of the sums deducted

Article 154

Works of art which, in a public sale, have attained at least the price indicated in Article 146, shall be notified to the S.I.A.E. by the person who has lawfully directed the sale. The S.I.A.E. shall proceed to effect appropriate registration in the manner prescribed by the Regulations.

In the absence of any imputation of falsity the registration effected shall constitute proof of the price obtained for the work.

Article 155

The amounts indicated in the Articles of this Section may be modified by Royal Decree promulgated in accordance with Article 3, paragraph 1 of the Law of January 31, 1926, No. 100.

CHAPTER III JUDICIAL PROTECTION AND SANCTIONS

SECTION I CIVIL PROTECTION AND SANCTIONS

§ 1. Rules Relating to the Rights of Economic Utilization

Article 156

Any person having reason to fear the infringement of a right of economic utilization belonging to him according to this Law, or who seeks to prevent continuation or repetition of infringement which has already occurred, may institute judicial proceedings to ensure that his right be recognized and the infringement forbidden.

The action shall be regulated by the rules of this Section and by the provisions of the Code of Civil Procedure.

Article 157

Any person who is entitled to exercise the rights of public performance of a work suitable for such performance, including a cinematographic work or a work of musical composition may, in accordance with the provisions of the Regulations, request the Prefect of the province to prohibit any performance for which written proof of his consent is not shown.

The Prefect shall, upon request and on the basis of the notices and documents submitted to him, authorize or forbid the performance, subject to the right of the interested party to have recourse to the judicial authority for final decision.

Article 158

Any person injured by the exercise of a right of economic utilization belonging to him may institute legal proceedings for the removal or destruction of the material constituting the infringement or for payment for damages.

Article 159

The removal or destruction referred to in the foregoing Article may be effected only as regards specimens or copies il legally reproduced or disseminated, and contrivances employed for reproduction or dissemination which, by their nature, are not capable of use for the reproduction or dissemination of other matter.

If a part of the specimen copy, or contrivance in question is capable of use for the reproduction or dissemination of other matter, the interested party may, at his expense, request the separation, in his interest, of such part.

If the specimen, copy, or contrivance of which the removal or destruction is requested has special artistic or scientific value the judge, ex officio, may order its deposit in a public museum.

The injured party may, at any time, ask that the specimens, copies, and contrivances liable to destruction be delivered to him and their appraised value applied to the reparation due him.

The provisions for destruction and delivery shall not apply to infringing specimens or copies acquired in good faith for personal use.

Article 160

Removal or destruction shall not be demanded in the last year of the term for which the right endures. Seizure of the work or of the product may be ordered at any time up to the end of the said term. If the damages arising from the infringement of the right have been paid, seizure may be authorized even at a date prior to that indicated above.

Article 161

For the purposes of the proceedings referred to in the previous Articles, the judicial authority may order an inventory a report, an expert appraisal or the seizure of all matter constituting an infringement of the right of utilization.

Seizure may not be effected in the case of works resulting from the collaboration of two or more persons, except in case of special gravity or when the infringement is imputable to all the coauthors.

The judicial authority may also, in specially grave cases, order the seizure of profits due to the author of the disputed work or product.

The provisions of this Section shall also apply to any person circulating, in whatever manner, or detaining, for commercial purposes, unauthorized copies of computer programs and any contrivance intended exclusively for allowing or facilitating the unauthorized removal or the operational disconnection of protection devices for computer programs.

Article 162

The measures provided for by the preceding Article shall be authorized, upon request of the interested party, by an order of the of the Pretore of the district where they are to be carried out, whatever may be the value involved; provided that when litigation is pending between the parties before a court of two or more judges, the measure in question shall be authorized by an order of the Pretore or when the suit is pending before a collegiate court, by the investigating judge.

In case of urgency, the measures may also be authorized by the Pretore of the district in which they are to be carried out.

The same order may require the claimant to deposit suitable security.

Except in the case where delay would involve danger, the judicial authority, before ruling upon the request, shall summon to chambers for a summary hearing, the party against whom the measure would be executed and the party making request.

The order shall, before its execution or simultaneously therewith, be notified to the party against whom it is to be executed. Execution shall be effected by a judicial official and, where necessary, with the assistance of one or more experts named in the said decision.

In the case of public performances, the limitations of days and hours specified by the Code of Civil Procedure for measures of such nature shall not apply to the execution of orders hereunder.

Article 163

Unless otherwise decreed in the order of seizure for the purposes of penal justice, the measures referred to in the preceding Articles shall, without need for pronouncement by the judicial authority, be of no effect if, within eight days following their execution, action has been taken before the competent judge to confirm the measures in relation to the person against whom they were taken.

Article 164

If the actions for which provision is made in this and the following Section are instituted by one of the official legal entities referred to in Articles 180 to 184, the following rules shall be observed:

(1) the officers of the above-mentioned entities may, without special authorization and upon proof of their status as such, institute the actions mentioned above in the interests of the owner of the rights;

(2) such legal entities shall be relieved of the obligation of furnishing security for carrying out acts in respect of which security is prescribed or authorized;

(3) such legal entities may avail themselves of the procedure for securing an injunction under the conditions specified in Articles 3 and 12 of the Royal Decree of August 7, 1936 No. 1531, according to the provisions of the Regulations which designate the state and public officials authorized to deliver the attestations and to receive the declaration specified in the Articles indicated above.

Article 165

The author of a work which is the object of the right of utilization may, after the assignment of such right, intervene at any time, in order to protect his interests, in proceedings instituted by the assignee.

Article 166

The judge may, at the instance of the interested party or ex officio, and at the expense of the unsuccessful party, order the operative portion of the judgment to be published, more than once if necessary, in one or more newspapers.

Article 167

The rights of economic utilization recognized by this Law may also be judicially enforced by any person legitimately entitled to such rights.

§2. Special Rules for Proceedings in Respect of the Moral Right

Article 168

In proceedings concerning the exercise of the moral right, the provisions contained in the preceding Section shall be applicable, insofar as the nature of this right permits subject to the application of the provisions of the following Articles.

Article 169

Actions in defense of the rights bearing upon the authorship of the work shall give rise to the sanction of removal and destruction only when the injury cannot be remedied by means of the addition or suppression of indications on the work which will refer to its authorship or by other means of publicity.

Article 170

Actions in defense of the rights bearing upon the integrity of the work shall give rise to removal or destruction of the deformed, mutilated or otherwise modified copy of the work only when it is not possible to re-establish the said copy in its original form at the expense of the party interested in avoiding removal or destruction.

SECTION II PENAL PROTECTION AND PENALTIES

Article 171

Without prejudice to the provisions of article 171-bis, any person shall be punishable by a fine of from 100,000 to 4,000,000 lire who, without having the right, and for any purpose and in any form:

- (a) reproduces, transcribes, recites in public, disseminates, sells or offers for sale, or otherwise commercially distributes the work of another person, or reveals the contents of such work before it is made public, or introduces or circulates within the State copies produced abroad contrary to Italian Law;
- (b) performs or recites in public or diffuses, with or without variations or additions, the work of another person suitable for public performance, or a musical composition. Performance includes the public showing of a cinematographic work, the performance in public of musical compositions included in cinematographic works, and broadcasting by means of a loud-speaker operated in public;
- (c) commits the acts indicated in the preceding clauses by means of any of the forms of elaboration referred to in this Law;
- (d) reproduces copies or gives performances in excess of the number which he had the right to reproduce or perform;
- (e) Repealed
- (f) in violation of Article 79, retransmits by wire or by broadcasting, or records upon phonograph records or other like contrivances radiophonic transmissions or retransmissions, or sells phonograph records or other contrivances which have been unlawfully made.

The penalty shall be imprisonment up to one year or a fine of not less than 1,000,000 lire if the acts referred to above are committed in relation to a work of another person which is not intended for public disclosure, or by usurpation of the authorship of the work, or with deformation, mutilation or other modification of the work and such acts constitute an offense against the honor or reputation of the author.

Art. 171-bis

Whoever unlawfully duplicates computer programs for purposes of gain, or imports, distributes, sells, detains for commercial purposes or leases the said programs, for the selfsame purposes and being aware or having reason to be aware of the fact that such copies were not authorized, shall be punished by imprisonment for between three months and three years and by a fine of between 500,000 and 6,000,000 liras. The same punishment shall be not less than imprisonment for six months and a fine of 1,000,000 liras if the offence is serious or if the program which was unlawfully duplicated, imported, distributed, sold, detained for commercial purposes or leased had been previously distributed, sold or leased on media bearing the mark of the Italian Authors' and Publishers' Association pursuant to this law and to the relevant Regulations as per Royal Decree no. 1369 of May 18, 1942.

Conviction for any of the offences as per paragraph 1 shall entail publication of the judgment in one or more newspapers and in one or more specialized magazines.

Article 171-ter

Imprisonment for between three months and three years and a fine of between 500,000 and 6,000,000 liras shall be imposed on any person who:

- a) unlawfully duplicates or reproduces, for purposes of gain and by whatever means, works intended for cinematographic or television distribution, records, tapes or like media as well as any other media containing phonograms or videograms of cinematographic or audiovisual works or sequences of motion pictures;
- b) though not participating in the duplication or reproduction, offers for sale, leases or, at all events, grants the use of, for purposes of gain, performs a public showing of or broadcasts by television the duplications or reproductions as per subheading a);
- c) sells or leases videotapes, music tapes or any other media containing phonograms or videograms of cinematographic or audiovisual works or sequences of motion pictures which do not bear the mark of the Italian Authors' and Publishers' Association (S.I.A.E.) pursuant to this law and to the relevant Regulations.

The punishment shall be not less than imprisonment for six months and a fine of 1,000,000 liras if the offence is serious.

Conviction for any of the offences as per paragraphs 1 and 2 shall entail publication of the judgment in one more newspapers and in one or more specialized magazines.

Article 171-quater

Except where the act amounts to a more serious offence, imprisonment for up to one year or a penalty of between 1,000,000 and 10,000,000 liras shall be imposed on any person who, without being authorized to do so and for purposes of gain,:

- a) leases or, at all events, grants the use, for whatever purpose, of original specimens or of copies or of the media, obtained lawfully, of copyright works;
- b) records the artistic performances as per article 80 on audio, video or audiovisual media.

Art. 172

If the acts as per article 171 were committed by negligence, the punishment shall be a penalty of up to 2,000,000 liras.

Any person shall be punishable with a like penalty who:

- (a) acts as an intermediary in violation of Articles 180 and 183;
- (b) fails to carry out the obligations specified in Articles 153 and 154;
- (c) violates the provisions of Articles 175 and 176.

Any person who violates the provisions of Articles 177 and 178 shall be punishable by a fine of up to 400,000 lire.

Article 173

The penalties specified in the preceding Articles shall apply in all instances where the acts in question do not constitute a more serious offense within the meaning of the Penal Code or other laws.

Article 174

In penal proceedings under this Section injured party, as a civil complainant, may at any time request the penal judge to apply the measures and sanctions specified in Articles 159 and 160.

PART IV DOMANIAL FEES

Article 175

For every performance or broadcast of a work suitable for public performance, or of a musical work, when such work is in the public domain for any reason any person who performs or broadcasts such work shall, in accordance with the rules contained in the Regulations, be required to pay to the State a domanial fee based upon the gross receipts or that part of the receipts which is proportionate to the part that the work occupies in the performance or broadcast, irrespective of the purpose of the performance or broadcast and of the country of origin of the work.

The amount of the nominal fee shall be determined by a Presidential Decree.

The amount of the domanial fee for separate portions of musical works or for short music compositions, shall be determined by the "S.I.A.E." in accordance with the provisions of the Regulations and upon the basis of the amount of payment normally required by the said body in respect of protected works performed under similar conditions.

Article 176

The domanial fee shall also be payable in respect of public performances and broadcasts of protected elaborations of works in the public domain specified in the preceding Article. In such a case, and without prejudice to the rights of the author of the elaboration, the amount of the domanial fee shall be determined on the basis of one half of what would have been due if the performance or broadcast had had as its object the work in the public domain in its original form.

Art. 177 (1) ...omissis...

Art. 178 (1) ...omissis...

Art. 179 (1) ...omissis...

PART V OFFICIAL LEGAL ENTITIES CONSTITUTED FOR THE PROTECTION AND EXERCISE OF THE RIGHTS OF AUTHORS

Article 180

The right to act as an intermediary in any manner whether by direct or indirect intervention, mediation, agency or representation, or by assignment of the exercise of the rights of performance, recitation, broadcasting and mechanical and cinematographic reproduction of protected works, shall be reserved exclusively to the S.I.A.E.

Its activities shall be exercised to effect:

- (1) the granting of licenses and authorizations for the economic utilization of protected works, for the account of and in the interests of the persons entitled to the rights;
- (2) the collection of the proceeds arising from the said licenses and authorizations;
- (3) the distribution of the said proceeds among the persons entitled thereto.

The SIAE shall, moreover, carry on its activities, in accordance with the provisions established by the Regulations, in those foreign countries in which it possesses organized representation.

The said exclusivity of powers shall not prejudice the right of the author or his successors in title to exercise directly the rights recognized in their favor by this Law.

In the distribution of the proceeds referred to under clause (3) of the second paragraph, a portion shall be reserved to the author in all cases. The limits and the methods of distribution shall be determined by the Regulations.

If, however, the rights of economic utilization of the work are capable of giving rise to the collection of funds abroad on behalf of Italian citizens domiciled or resident within the Republic and the owners of these rights do not, for any reason effect the collection of such funds, then, after the lapse of one year from the date when liability for payment arose, the S.I.A.E. shall be empowered to exercise the rights for the account and in the interests of the author or his successors in title.

The funds mentioned in the preceding paragraph which are collected by S.I.A.E. shall, after deduction of the expenses of collection, be held at the disposal of claimants for a period of three years. If this period elapses without such funds being claimed, they shall be paid to the National Federation of Professional Artists (Confederazione Nazionale professionisti ed artisti) to assist categories of authors, writers and musicians.

Article 181

In addition to the functions indicated in the foregoing Article and those imposed upon it by this Law and other provisions, the S.I.A.E. may, pursuant to its statutes, exercise other activities connected with the protection of intellectual works. The S.I.A.E. may undertake, for the account of the State or of public or private institutions, the services of ascertaining and collecting taxes, contributions and fees.

Article 182

The S.I.A.E. shall be subject to the supervision of the Office of the Chairman of the Council of Ministers, in accordance with the provisions of the Regulations.

The statutes of the said organization shall be approved by Presidential Decree upon the proposal of the Office of the Chairman of the Council of Ministers in agreement with the Ministers of Foreign Affairs, of Grace and Justice, of Finance and of Public Instruction.

Article 183

The placing of Italian non-musical dramatic works with theatrical companies and enterprises shall be subject to the preliminary authorization of the Office of the Chairman of the Council of Ministers, in accordance with the provisions of the Regulations.

The author and his successors *causa mortis* shall not be required to obtain such authorization.

However, translators of foreign works shall be subject to such requirement.

The placing of such works shall be subject to the supervision of the Office of the Chairman of the Council of Ministers in accordance with the provisions of the Regulations.

Article 184

Any person who places Italian non musical dramatic works in foreign countries shall make declaration thereof within three days to the Italian Society for Theatrical Exchanges (Ente italiano per gli scambi teatrali), and the Society shall transmit monthly to the Office of the Chairman of the Council of Ministers a list of the declarations received, together with any observations and proposals.

The Italian Society for Theatrical Exchanges shall also exercise such other functions as its statutes may require.

The provisions of Article 182 shall apply to the Italian Society for Theatrical Exchanges.

PART VI FIELD OF APPLICATION OF THE LAW

Article 185

Subject to the provisions of Article 189, this Law shall apply to all works of Italian authors, wherever first published.

It shall likewise apply to the works a foreign author domiciled in Italy which are first published in Italy.

Apart from the conditions of protection indicated in the preceding paragraph, this Law may likewise be applied to the works of foreign authors when the conditions indicated in the following Articles are fulfilled.

Article 186

The international conventions for the protection of intellectual works shall govern the field of application of this Law to works of foreign authors.

If the convention contain a general stipulation of reciprocity or of equality of treatment, such stipulation shall be interpreted according to the rules of actual equivalence of the two protections as provided in the following Articles.

Article 187

In the absence of international agreements, works of foreign authors which do not comply with the conditions specified in the second paragraph of Article 185 shall, within the limits of actual equivalence, enjoy the protection granted by this Law, provided that the State of which they are citizens grants to the works of Italian authors protection which is effectively equivalent.

If the foreigner is a stateless person or if his nationality is uncertain, the rule of the preceding paragraph shall operate with reference to the State in which the work is first published.

Article 188

Actual equivalence, in accordance with the following rules, shall be certified and regulated by Presidential Decree.

The duration of protection of a foreign work shall in no case exceed that enjoyed by the work in the State of which the foreign author is a citizen.

If the law of the said State includes a period of compulsory licensing during the term of protection, the foreign work shall be submitted to an equivalent rule in Italy.

If the law of the said State makes protection subject to compliance with formalities, declarations of reservation, or the deposit of copies of the work, or any other formality, the foreign work shall, in Italy, be subject to equivalent formalities, as determined by Presidential Decree.

The Presidential Decree may, moreover, subject the protection of the foreign work to the fulfilment of other special formalities or conditions.

Article 189

The provisions of Article 185 shall apply to cinematographic works, to phonograph records or like contrivances, to the rights of performing actors or artists, to photographs and to engineering works, if such works or products are created in Italy or may be considered national works according to this Law or any other special law.

In the absence of the conditions indicated above, the provision of Articles 186, 187 and 188 shall be applicable to the said works, rights or products.

PART VII PERMANENT CONSULTATIVE COUNCIL ON COPYRIGHT

Article 190

A Permanent Consultative Council on Copyright shall be established under the direction of the Office of the Chairman of the Council of Ministers.

The Council shall proceed to the study of matters bearing upon copyright or connected there with and shall furnish information upon questions relating to such matters, when so requested by the Office of the Chairman of the Council of Ministers, or when special provisions so require.

Article 191

The Council shall consist of:

- (a) a Chairman designated by the Office of the Chairman of the Council of Ministers.
- (b) one Vice-Chairman each from the Corporations of the Professions and Arts of Spectacles, and of Stationery and Printing;
- (c) (suppressed)
- (d) one representative each of the Ministers of Foreign Affairs, of Grace and Justice, of Finance, and of Corporations and two representatives of the Minister of Public Instruction;
- (e) the general director for entertainment of the Ministry of Tourism and Entertainment and the heads of the information department and of the department for literary, artistic and scientific property at the Office of the Chairman of the Council of Ministers;
- (f) the Presidents of the Confederations of Professionals, of Artists, and of Industrialists, and three representatives of each of the Confederations above indicated, especially

competent in the matter of copyright, as well as a representative of the Confederation of the Workers of Industry (“Confederazione dei lavoratori dell’industria”) designated by the National Confederation of Stage Workers (“Federazione nazionale dei lavoratori dello spettacolo”).

- (g) the President of S.I.A.E.;
- (h) three copyright experts, designated by the Chairman of the Council of Ministers;

The member of the Office of the Chairman of the Council of Ministers in a decree of the Office of the Chairman of the Council of Ministers and shall remain in office for a period of four years.

Article 192

The Council shall meet in ordinary session each year upon a date fixed by the Office of the Chairman of the Council of Ministers, and in extraordinary session on all occasions when so requested by the said President.

Article 193

The Council may be convened: (a) in general assembly; (b) in special Committees.

All members of the Council shall participate in general assemblies. The special Committees shall, from time to time, be constituted for the study of given questions, as directed by the Chairman.

The Chairman of the Council of Ministers’ upon the proposal of the Chairman of the Council, may also invite to meetings, but without the right to vote, persons other than members of the Council who may be specially competent on the questions to be considered.

Article 194

The secretariat shall be provided by the Director of the Office of Literary Scientific and Industrial Property, established under the Office of the Chairman of the Council of Ministers.

Article 195

The members of the Council shall receive attendance fees for each day of sitting, in accordance with current regulations governing such matters.

PART VIII GENERAL, TRANSITIONAL AND FINAL PROVISIONS

Article 196

The place in which the rights of utilization specified in Article 12 et seq. of this Law are first exercised, shall be deemed to be the place of first publication.

As regards works of art, cinematographic works, phonograph records and other like contrivances for the reproduction of sounds or voices, works of photography, and any other work identified by its material form, the place of making or manufacture shall be deemed to be the place of first publication.

Article 197

Publication and performance contracts shall be subject to a graduated registration tax of 0.50%.

Article 198

There shall be set aside the budget of the Minister of in a special section of the ordinary portion thereof, as from the budgetary year in which this Law comes into force, the sum of 60 million lire, derived from the profits of the fees specified in Articles 173 and 176, to be bestowed in the manner specified in the Regulations in favor of the Assistance and Insurance Fund of Syndical Associations of Authors,

Article 199

This Law shall also apply to works published in any manner either before or after its coming into force.

The legal effects of acts and contracts made or concluded before its coming into force shall remain entirely unaffected and shall continue in accordance with the provisions then in force.

Article 199bis

This law shall also apply to computer programs created before the date of its entry into force, without prejudice to any acts concluded or to any rights acquired prior to the said date.

Article 200

Until the coming into force of the new Code of Civil Procedure, the functions conferred by Article 162 upon the investigating judge shall be exercised by the President of the Division before whom the case is pending.

Article 201

In respect of works published and products made or manufactured before the coming into force of this Law which are subject for the first time to the obligation of deposit or other formalities, the said deposit and formalities must be fulfilled within the time and according to the rules established by the Regulations.

Article 202

For the purposes of Article 147, the prices obtained from sales effected before the coming into force of this Law shall not be taken into consideration.

Article 203

Special regulations relating to the exclusive right of television may be issued by Presidential Decree.

Until such time as the Regulations referred to in the preceding paragraph have been issued television shall be regulated by the general principles of this Law, insofar as they are applicable.

Article 204

As from the coming into force of this Law, the Italian Society of Authors and Publishers shall assume the name S.I.A.E.

(Società Italiana Autori Editori).

Article 205

The Law of March 18, 1926, No. 256, which converted into law the Royal Decree Law of November 7, 1925, No. 1950, containing provisions relating to copyright and the successive laws and modifications of the said Law, are repealed.

The Law of June 17, 1937, No. 1251, which converted into law the Royal Decree Law of February 18, 1937, containing rules relating to the protection of the products of the phonographic industry, and the Law of June 2, 1939, No. 739, which converted into law the Royal Decree Law of December 5, 1938, No. 2115, containing special measures for deferred broadcasting of artistic performances, as well as any other laws or provisions of law contrary to and incompatible with the provisions of this Law, are also repealed.

Article 206

The Regulations for carrying out this Law shall fix the penalties for violation of provisions of the said Regulations.

The said penalties may include a fine of not more than 320.000 lire.

This Law shall come into force simultaneously with the Regulations; the latter shall be promulgated within a period of six months following publication of this Law.

Within the same period, a new statute governing "S.I.A.E." shall also be issued.

It is hereby ordered that this Law, inscribed with the Seal of State, shall be inserted in the official collection of Laws and Decrees of the Kingdom of Italy, and all are required to observe it and to cause it to be observed as a Law of the State.
