

**REPUBLIC OF MOLDOVA**

**Law on Copyright and Neighboring Rights  
(Amended by Law no. 29-XIV, of May 28, 1998 and  
Law no. 1207-XIV, of July 28, 2000)**

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## **Chapter I General Provisions**

### *Legal Basis*

**Art. 1.** – (1) Copyright and neighboring rights and the protection and sanction of those rights shall be governed by the Constitution, by this Law and by other texts.

(2) This Law governs the relations that arise from the creation and use of literary, artistic and scientific works (copyright) and from the creation and use of performances, phonograms and the broadcasts of radio and television organizations (neighboring rights).

### *International Treaties*

**Art. 2.** Where an international treaty to which the Republic of Moldova is party contains rules different from those specified in this Law, the provisions of the international treaty shall apply.

### *Basic Concepts*

**Art. 3.** For the purposes of this Law:

- *author* means the natural person whose creative effort has led to the creation of a work;
- *database* means a body of data (articles, accounts and other documents) assembled or arranged in a manner enabling them to be retrieved and processed by means of a computer;
- *audiovisual work* means a work consisting of a series of interconnected images (with or without sound accompaniment) giving an impression of movement and which is perceivable to hearing and to vision;
- *collective work* means a work created by more than one natural person at the initiative and under the direction of a natural or legal person who will publish the work under his own name;
- *derived work* means the result of creative intellectual effort based on a preexisting work (translation, adaptation, stage adaptation, transformation, etc.);
- *computer* means an electronic or similar device capable of processing information;
- *communication to the public* means the transmission over the air, **including by satellite**, by cable or by any other means, of images, sounds or images and sounds of works, performances, phonograms or broadcasts of broadcasting or cable distribution organizations where such images or sounds may be perceived by persons outside the usual family circle and their close acquaintances in places sufficiently distant for the images or sounds not to be perceivable without such transmission;
- *public presentation* means the showing of an original or a copy of a work, a performance or a broadcast of a broadcasting or cable distribution organization either directly or on a screen by means of a film, a slide, an image or any other device or process (except for transmission over the air or by wire) where the work, the representation or performance may be perceived by persons outside the usual family circle and their close acquaintances; the public presentation of an audiovisual work consists in the showing of individual images of an audiovisual work irrespective of order;

- *broadcast of a broadcasting or cable distribution organization* means a broadcast created by the broadcasting or cable distribution organization itself or, on its instructions and with its funds, by another organization;
- *phonogram* means any exclusively sound recording of performances or other sounds; a duplicate of a phonogram on any material medium whatsoever, made directly or indirectly from another phonogram and incorporating all or some of the sounds recorded on such phonogram, constitutes a copy of a phonogram;
- *performer* means an actor, conductor, singer, musician, dancer or any other person who performs, sings, narrates or executes in any other way a literary or artistic work or a variety, circus or puppet act, **protected or not protected by copyright**;
- *public performance* means the presentation of works, performances, phonograms or broadcasts of broadcasting or cable distribution organizations, by reciting, playing, singing or any other means of expression either in a live show or with the aid of a device or process of any kind (except for transmission over the air or by wire) where the works, performances, phonograms or broadcasts may be perceived by persons outside the usual family circle and their close acquaintances;
- *recording* means the fixing, by technical means, of sounds or images or of both in a material form that permits them to be repeatedly perceived, reproduced or communicated;
- *rental* means the transfer of ownership of an original or of a copy of a work or of a phonogram for a fixed period of time for direct or indirect profit;
- *producer* means the person who organizes, or who organizes and finances, the making of an audiovisual work;
- *phonogram producer* means the natural or legal person at whose initiative and under whose responsibility the first fixation on a magnetic medium has been made of a performance or of any other combination of sounds;
- *computer program* means a set of instructions and commands expressed in words, codes or diagrams presented in machine-readable form and which may operate a computer with a view to a specific aim or result; this concept covers both the preparatory material produced during development of the program and the audiovisual displays generated by the program;
- *publication* means the causing to appear or putting into circulation of a work or a phonogram with the consent of the author or other holder of the copyright or neighboring rights, in sufficient quantity to satisfy the needs of the public; this concept also covers the lawful making available of a work or of a phonogram by computerized means;
- *reproduction* means the making of one or more copies of a work or of a phonogram in any material form whatsoever, including an audio or video recording, and the recording of a work or of a phonogram with a view to temporary or permanent storage in an electronic (including digital) or optical form or in any other machine-readable form;
- *reprographic reproduction* means the facsimile reproduction of the original of a written or other graphic work, whether in the same format, enlarged or reduced, by means of photocopying or with the aid of other technical means, except those of publishing; reprographic reproduction does not include recording in an electronic (including digital) or optical form or in any other machine-readable form;
- *rebroadcasting* means the simultaneous broadcasting (or cable transmission) by a broadcasting or cable distribution organization of programs of another broadcasting or cable distribution organization;

- *holder of copyright or neighboring rights* means either the author or performer or a natural person other than the author or performer or a legal person who enjoys the economic rights.

## **Chapter II Copyright**

### ***General Provisions***

**Art. 4.**-(1) This Law shall protect as copyright works of the mind created in the literary, artistic and scientific fields, expressed in any material form that permits their reproduction, whether they have been disclosed or not, and whatever their form, purpose, value or means of reproduction.

(2) An author shall enjoy exclusive rights in his work by the sole fact of having created such work. Copyright shall subsist and be assertable without requiring registration of the work or the carrying out of any other action or formality.

(3) Copyright shall comprise prerogatives of an economic nature and prerogatives of a moral nature.

(4) Copyright shall subsist independently of any right of ownership in the physical object in which the corresponding work is expressed. Acquisition of such object shall not afford the owner of the object any of the rights afforded by this Law to authors.

### ***Scope of Copyright***

**Art. 5.**-(1) Copyright protection shall extend to

- (a) works, irrespective of place of first publication, of which the copyright holder is a natural or legal person of the Republic of Moldova;
- (b) works published for the first time in the Republic of Moldova whatever the nationality of the holder of copyright in such works;
- (c) other works, in accordance with the international treaties to which the Republic of Moldova is party.

(2) A work shall be deemed published for the first time in the Republic of Moldova if it has been published in the country within 30 days of the date of its first publication abroad.

### ***Works Protected by Copyright***

**Art. 6.** -(1) Copyright shall extend to literary, artistic and scientific works expressed in the following forms:

- (a) written form (manuscript, typewritten text, musical score, etc.);
- (b) oral form (public recitation, public performance, etc.);
- (c) audio or video recording (mechanical, magnetic, digital, optical, etc.);
- (d) figurative form (drawing, sketch, painting, plan, industrial design, still from a cinematographic film or television or video film, photograph, etc.);
- (e) three-dimensional form (sculpture, model, mock-up, structure, etc.);
- (f) any other form, known or as yet unknown.

- (2) Copyright protection shall extend to
- (a) literary works (books, brochures, articles, computer programs, etc.);
  - (b) dramatic or dramatico-musical works, scenarios or storyboards, librettos, film synopses;
  - (c) musical works, with or without words;
  - (d) choreographic works and mimed works;
  - (e) audiovisual works (cinematographic films, television and video films, static projections, etc.);
  - (f) works of painting and sculpture, graphic works and other works of fine art;
  - (g) works of architecture, town planning and park and garden design;
  - (h) works of applied art;
  - (i) photographic works and works obtained by processes analogous to photography;
  - (j) maps, plans, sketches and three-dimensional works relating to geography, topography, architecture and other scientific fields;
  - (k) derived works and composite works (translations, adaptations, arrangements and other transformations of literary, artistic or scientific works, instrumental adaptations of musical works, and encyclopedias, anthologies, collections, databases, etc.); derived works and composite works shall be protected by copyright regardless of any protection that may attach to the works from which they are derived or to the works they include;
  - (l) other works.

(3) The protection of computer programs shall extend to all types of programs (including operating systems) whatever the language and form in which they are expressed, including source code and object code.

(4) Copyright shall extend to architectural solutions (works) with respect to both the whole and to their various elements, including works created on commission.

### ***Works Not Protected by Copyright***

**Art. 7.-**(1) Copyright shall not extend to

- (a) official documents (laws, court decisions, etc.) or to the official translations thereof;
- (b) State emblems and official signs (flags, armorial bearings, decorations, monetary signs, etc.);
- (c) works of folklore;
- (d) communications concerning events and facts of an informational nature.

(2) Ideas, methods, processes, systems, means, concepts, principles and discoveries may not enjoy copyright protection.

### ***Acknowledgement of Authorship; Presumption of Authorship; Registration of Works***

**Art. 8.-**(1) In the absence of proof to the contrary, the person or persons under whose name a work has been disclosed shall be deemed to be the authors thereof.

(2) A holder of rights may have his rights acknowledged by means of a copyright notice which should be placed on each copy of the work and should consist of the following three elements:

- (a) a circled capital letter C: ©;
- (b) the name (or designation) of the holder of the exclusive rights;
- (c) the year of first publication of the work.

(3) The holder of exclusive rights in a work, whether disclosed or not, may have his rights entered in the official registers at any time during the subsistence of copyright.

(4) An official certificate shall be issued to the person who registers a work. Pursuant to Article 4(2) and paragraph (1) of this Article, the certificate shall not imply a presumption of authorship. However, in the event of a dispute, it may constitute a presumption of authorship for the court in the absence of proof to the contrary.

(5) Official registration of a literary, artistic or scientific work shall be effected by the National Copyright Agency.

### *Moral Rights*

**Art. 9.-**(1) An author of a work shall enjoy the following moral rights:

- (a) the right of authorship – the right to be acknowledged as the author of his work and the right to require such acknowledgement, including the placing of his name on all copies of a published work or reference to his name at each public performance of a work where such is physically possible;
- (b) the right to be named – the right of the author to decide how he is to be designated in relation to use of his work (by his true name, a pseudonym or anonymously);
- (c) the right to respect for the integrity of his work;
- (d) the right to respect for his reputation – the right to protection of his work against any distortion, mutilation or other derogatory act liable to prejudice his honor and dignity as an author;
- (e) the right to disclose his work or to authorize or prohibit disclosure in any form whatsoever, including the right to reconsider or the right of withdrawal. **Withdrawal of a work from the trading network consequently to the changing of the author's principles shall be permissible provided that the author pays in advance the damages incurred by the holder of the right to exploit the work.**

(2) Moral rights shall be inalienable; if an author transfers his economic rights, he shall maintain his moral rights.

### *Economic Rights*

**Art. 10.-**(1) An author or other holder of copyright shall enjoy the exclusive right to exploit his work in any form and by any means.

(2) The exclusive right to exploit a work means the right to perform, authorize or prohibit the following acts:

- (a) reproduction of the work;
- (b) distribution of copies of the work by sale, rental or in any other way;
- (c) importing of copies of the work for the purposes of distribution, including copies made with the authorization of the author or other holder of copyright;

- (d) presentation of the work in public;
- (e) public performance of the work;
- (f) communication of the work to the public;
- (g) translation of the work;
- (h) transformation, adaptation, arrangement or any like modification of the work.

(3) The right to distribute by rental the original or copies of an audiovisual work, a computer program, a database, a work fixed on a phonogram or a musical work in the form of a score shall belong to the author or other holder of copyright independently of the right of ownership in such copies.

(4) The exclusive rights of an author in the exploitation of a project for architecture, town planning or park and garden design shall also extend to the practical implementation of such project.

(5) The amount and manner of payment of remuneration due to the author for each form of exploitation of his work shall be laid down in the author's contract or in the contracts which the organizations for the collective administration of economic rights conclude with users.

### ***Works of Joint Authorship***

**Art. 11.**-(1) Copyright in a work which is the result of the joint creative effort of two or more persons shall belong in common to the joint authors, regardless of whether the work constitutes an indivisible whole or is composed of parts.

(2) A part of a work shall be deemed independent if it may be used separately from the other parts of the work.

(3) Each of the joint authors shall maintain copyright in the part of the work he has created if that part is independent, and he may use it as he sees fit.

(4) The relations between the joint authors should be covered by a contract. In the absence of such contract, copyright in the work shall be exercised jointly by all the joint authors and the corresponding remuneration shall be divided between them in equal shares.

### ***Copyright in Audiovisual Works***

**Art. 12.**-(1) The following shall be recognized as authors or joint authors of an audiovisual work:

- (a) the author of the scenario (scriptwriter);
- (b) the film director;
- (c) the composer of any musical work (with or without words) created specifically for the audiovisual work;
- (d) the cameraman;
- (e) the artistic director.

(2) The author of a preexisting work that has been incorporated, after transformation or unchanged, in an audiovisual work shall also be deemed a joint author of such audiovisual work.



(3) Unless otherwise laid down by contract, the conclusion of an author's contract for creating an audiovisual work shall imply assignment, **in exchange of an equitable remuneration**, by the joint authors to the producer of such work of the following exclusive rights of exploitation: the rights of reproduction, distribution, presentation to the public, public performance and communication to the public and the rights of subtitling and dubbing.

(4) The producer of an audiovisual work shall be entitled to advertise his name or designation or to require that it be advertised in respect of any exploitation of the work.

(5) The provisions of paragraph (3) of this Article shall apply with respect to the other authors who have made a creative contribution to the making of the audiovisual work.

(6) Notwithstanding the provisions of paragraph (3) of this Article, **the scriptwriter, the scene director, the cameraman, the scene painter**, the author of a musical work, with or without words, specifically created for an audiovisual work shall maintain the right to remuneration for each public performance or each communication to the public of the work as also for any rental of copies of the **audiovisual** work.

(7) The master copy of a film (negatives, original recording) may not be destroyed without the consent of the author and the other holders of economic rights in the film.

#### *Copyright in Composite Works*

**Art. 13.**-(1) The compiler of a collection or any other composite work shall enjoy copyright in the selection or arrangement he has made of the materials if such selection or arrangement constitutes the result of a creative effort.

(2) The copyright of the compiler shall not prejudice the rights of the authors of each work included in the composite work.

(3) The authors of the works included in a composite work shall have the right to exploit their works independently of the composite work unless otherwise laid down in the author's contract.

(4) Notwithstanding the copyright of the compiler, any other person may make an independent selection or an independent arrangement of the same materials for the purpose of creating his own composite work.

**(5) Selections containing various informative materials (articles and information, allocutions and essays, diagrams and tables, etc.), if such selection or arrangement constitutes the result of an intellectual activity, shall be protected as such. Protection shall not extend to numerical data nor to the content of the informative materials included in the selection.**

#### *Copyright in Derived Works*

**Art. 14.**-(1) Translators and other authors of derived works shall enjoy copyright in the translations, adaptations, arrangements or other transformations made by them.

(2) The copyright of a translator or other author of a derived work shall not prejudice the rights of the author of the work that has been translated, adapted, arranged or otherwise transformed.

(3) Notwithstanding the copyright of the translator or other author of a derived work, any other person may carry out his own translation or transformation of the same work.

### ***Copyright in Collective Works***

**Art. 15.**-(1) Natural or legal persons who publish encyclopedias, dictionaries, collections of scientific works - appearing periodically or regularly - newspapers, reviews and other periodicals shall enjoy an exclusive right to exploit such collective works as a complete entity. Such persons shall have the right to advertise their name or designation or to require that it be advertised in relation to any exploitation of such collective works.

(2) Unless otherwise agreed in the author's contract, the authors of works included in a collective work shall maintain their exclusive rights in their own works and may exploit them independently of the collective work as a whole.

### ***Right of Access to Works of Fine Art; Resale Royalty***

**Art. 16.**-(1) Reproduction of a work of fine art for commercial purposes shall be permitted under the contract signed with the author.

(2) The author of a work of fine art shall have the right to require the owner of the work to allow him the possibility of reproducing his work (right of access). However, the owner of the work may not be required to deliver the work to the author to that end.

(3) Creation and distribution of a work of fine art containing a portrait shall be permitted with the consent of the represented person or testamentary heirs of the represented person.

(4) The author of a literary work, dramatic, dramatico-musical and/or musical work, registered as a phonogram or included into an audiovisual work shall be entitled to a royalty for each public resale of the copies of this work. The amount of the royalty shall be determined by agreement between the beneficiary and the author or by license granted by the organization for the collective administration of economic rights.

(5) For each public resale of the original of a work of fine art (sale by auction or at an art gallery, exhibition, shop, etc.), the vendor shall be required to pay to the author or his heirs remuneration representing 5% of the resale price (resale royalty) where such price is at least 20 times the minimum wage.

(6) This right shall be inalienable during the lifetime of the author and may be transferred only to the legal or testamentary heirs of the author, for the duration of copyright.

### *Copyright in Photographic Works*

*Art. 16/1.*—(1) Authors of photographic works shall enjoy all moral rights and economic rights referred to in Articles 9, 10 and 17.

(2) Exploitation in mass-media of the published photographic work shall be permissible without prejudice to the author's economic rights but subject to mentioning the name of the author whose work is used and the source of the borrowing.

### *Transfer of Copyright by Succession; Term of Copyright*

*Art. 17.*—(1) Copyright shall be transferred by succession.

1. (2) An author may, in accordance with procedures identical to those for the appointment of an executor, specify the person to whom he entrusts the protection of the author's rights in his works after his death. That person shall fulfill his mandate throughout his life.

(3) Copyright shall have effect throughout the lifetime of the author and for 50 years after his death computed as from January 1 of the year following that of his death, except in the cases referred to in paragraphs (4), (5) and (7) of this Article.

**(4) Copyright in audiovisual works shall be protected for 50 years and copyright in works of applied art for 25 years computed from the day of lawful publication of such works or from the day of their creation if they have not been published, or computed as from January 1 of the year following that of publication or of creation of the work.**

(5) Copyright in an anonymous or pseudonymous work shall have effect for 50 years after publication of the work computed as from January 1 of the year following that of publication of the work, except with regard to the works referred to in paragraph (4) of this Article. If the author of an anonymous or pseudonymous work reveals his identity or if his identity becomes obvious during that period of time, the provisions of paragraphs (3) and (4) of this Article shall apply.

(6) A publisher who has lawfully published an anonymous or pseudonymous work shall be deemed under this Law to represent the author and to be empowered, to that end, to assert the rights and legitimate interests of the author.

(7) Copyright in a posthumous work shall be protected for 50 years as from the day of first publication of the work, with the proviso that publication shall have taken place within 30 years following the death of the author; this provision shall not apply to the works referred to in paragraph (4) of this Article.

(8) Copyright in a work of joint authorship shall be protected until the death of the last surviving joint author and, after his death, for 50 years computed from January 1 of the year following that of his death.

(9) The moral rights of authors shall be protected without limitation in time. After the death of an author, the protection of his moral rights shall be assumed by his heirs and by the organizations duly authorized to assume the defense of authors' rights. Such organizations shall also assume protection of moral rights in the absence of heirs or where the copyright of the heirs has terminated.

(10) On expiry of the term of copyright, works shall fall into the public domain.

(11) Works in the public domain may be used freely subject to respect for the moral rights of the author. The Government may determine the amount of the royalties to be paid into the **cultural funds (literary, musical, fine art fund, etc.)** for the use of works of nationals of the Republic of Moldova that are in the public domain.

(12) If the term of protection for a work by a foreign author that is used in the Republic of Moldova is greater, under the laws of the country of the author, than the term set out in this Article, the term of protection laid down by this Law shall apply; if it is lesser, the term of protection laid down by the laws of the country of the author shall apply.

#### *Copyright in Works Created in the Execution of Duties*

**Art. 18.**-(1) The moral rights in a work created in the execution of explicit instructions from an employer or service duties (service creation) shall belong to the author of such work.

(2) Unless otherwise agreed by contract, the exclusive right to exploit a service creation by the means appropriate to the purpose of the instructions shall belong **for a period of three years** to the employer on behalf of whom the work has been created. **On expiry of this period, the economic rights shall revert to the author.**

(3) The amount of remuneration due to the author for each type of use of a service creation shall be laid down by contract between the author and the employer.

(4) The name of the author shall be shown each time the service creation is used, where physically possible. The employer shall also have the right to require his name (or designation) to be shown each time the service creation is used.

#### *Use of the Works of Authors by Other Persons*

**Art. 19.** The use by other persons of an author's work, unchanged, after transformation or in translation, shall require a contract to be concluded with the author or his successors in title, except in the cases referred to in Articles 20 and 23 of this Law. The limitations provided for with respect to authors' rights shall apply on condition that the use shall not prejudice normal exploitation of the work nor the rights and legitimate interests of the authors.

## Chapter III Limitations on Economic Rights

### *Reproduction of Works for Personal Use*

**Art. 20.**-(1) The reproduction of a single copy of a lawfully published work shall be permitted without the consent of the author or other holder of copyright and without payment of remuneration if made by a natural person for his own exclusive personal use and in compliance with the conditions set out in paragraph (3) of this Article.

- (2) The faculty afforded by paragraph (1) of this Article shall not extend to reproduction
  - (a) of a work of architecture in the form of a building or similar construction;
  - (b) a database;
  - (c) a computer program, except in the cases referred to in Article 23;
  - (d) of a complete book, a musical score or the original of a work of fine art.

(3) The holder of copyright in a work that has been reproduced in accordance with paragraph (1) of this Article shall be entitled to compensatory remuneration. Such remuneration **in the amount of 3% of the retail sale price shall be paid by enterprises (including manufacturers or importers)** of recording appliances (sound recording equipment, video recorders, etc.) and mediums (texts and cassettes for sound or video recording, optical discs, compact discs, etc.) used for reproduction.

(4) The collection, distribution and payment of the compensatory remuneration shall be undertaken by the organizations for the collective administration of the economic rights of authors, performers and phonogram producers, in accordance with an agreement concluded by such organizations. Unless otherwise stated in such agreement, the remuneration shall be shared as follows: 40% to authors, 30% to performers and 30% to phonogram producers.

(5) The amount of the compensatory remuneration and the manner of payment shall be determined by agreement between the above-mentioned **enterprises (including manufacturers or importers)**, on the one hand, and the organizations for the collective administration of the economic rights of authors, performers and phonogram producers, on the other.

(6) The compensatory remuneration shall be shared amongst the authors of the works referred to in paragraph (3) of this Article, where it may be assumed that their works have been subject to reproduction for personal use, and the other holders of copyright or neighboring rights in such works.

(7) No compensatory remuneration shall be paid in respect of the equipment and recording mediums referred to in paragraph (3) of this Article where they are exported, where they constitute professional equipment not intended for home recording or where they are imported by a natural person for his own exclusive use.

### *Reprographic Reproduction by Libraries; Archive Services and Teaching Establishments*

**Art. 21.**-(1) It shall be permissible without the consent of the author or other holder of copyright and without payment of remuneration, but subject to mention of the name of the

author whose work is used and of the source of the borrowing, to make reprographic reproduction in one copy, without gainful intent and to the extent justified by the aim pursued,

- (a) of a lawfully published work if the reproduction, in one copy, is made by a library or an archive service and if its purpose is to replace copies that have been lost, destroyed or have become unusable or to make a copy available to other libraries or similar archive services in order to replace in their own collections works that have been lost, destroyed or have become unusable, where it is impossible to obtain copies of the work through usual channels;
- (b) of isolated articles and other succinct works or of short extracts of written works (save for computer programs) that have been lawfully published if such reproduction, in one copy, is made by a library or archive services to meet the needs of natural persons who use the copy so obtained for the purpose of study or research or for their own personal use;
- (c) of isolated articles and other succinct works or of short extracts of written works (save for computer programs) that have been lawfully published if such reproduction is made by a teaching establishment and the copy so obtained is intended for use in the classroom.

(2) Reprographic reproduction as referred to in paragraph (1)(b) and (c) of this Article shall be permitted on condition that no reprographic reproduction license is offered by an organization for the collective administration of the economic rights of authors in such a manner that the library, archive service or teaching establishment is aware or should be aware thereof.

### *Free Use of Works*

**Art. 22.**-(1) The following shall be authorized without the consent of the author or other holder of copyright and without payment of remuneration, but subject to mentioning the name of the author whose work is used and the source of the borrowing:

- (a) quotation in the original language or in translation, in articles or studies, press reviews or radio and television programs of a critical, polemic, teaching, scientific or informational nature, of extracts from lawfully published works; in order to be authorized without payment of remuneration, the length of quotations may not exceed,
  - for an isolated extract (prose): 400 words,
  - for more than one extract from the same work: in the case of prose, 300 words for each extract, but not more than one author's sheet in all; in the case of poetry, 40 lines, subject to the extract not constituting more than one quarter of the work of poetry concerned;
- (b) reproduction for informational purposes in the press, on radio or television, in the original language or in translation, of extracts of published works (on condition that they form part of a report), of addresses given in public, of reports, and of published articles concerning matters of economic, political, social or religious current affairs; broadcasting and cable distribution organizations may only make ephemeral recordings of such works (for a period of time not exceeding six months);
- (c) reproduction in braille for the use of the blind of published works, except for works especially created for such means of reproduction;

- (d) public performance, during official or religious ceremonies or during funeral services of lawfully published works of music;
- (e) reproduction of works for the purposes of legal or administrative proceedings, to the extent justified by such purposes;
- (f) reproduction or communication to the public of works of architecture, photographic works and works of fine art permanently located in a public place, except where presentation of the work constitutes the main purpose of the reproduction or if it is used for commercial purposes.

(2) The exporting of a copy of a work by a natural person for his own exclusive use shall be permitted without the consent of the author or other holder of copyright and without payment of remuneration.

### ***Reproduction of Computer Programs and Databases; Decompilation of Computer Programs***

**Art. 23.**-(1) Any person lawfully in possession of a copy of a computer program or a database may, without the consent of the author and without payment of remuneration,

- (a) make alterations to the computer program or the database where they are necessary for use on the equipment of the user, record them and store them in a computer memory or correct any obvious errors, except as otherwise provided by contract;
- (b) make a backup copy of the computer program or database provided that the copy is intended either for archiving or to replace a lawfully held copy if such copy has been lost, destroyed or rendered unusable.

(2) A backup copy of a computer program or a database may not be used for any purposes other than those referred to in paragraph (1) of this Article and shall be destroyed in the event of possession of the copy of the computer program or of the database ceasing to be lawful.

(3) Any person who lawfully holds a copy of a computer program may, without the consent of the author or other holder of copyright, decompile the computer program (reproduce and translate the object code to source code) in order to achieve interoperability of the program with other computer programs, on condition

- (a) that the information needed for interoperability is not already available to the person concerned from other sources;
- (b) that the acts concerned are limited to those elements of the original program whose decompilation is essential to ensure interoperability;
- (c) that the information obtained by means of decompilation is used solely for the above-mentioned purposes and that it is neither communicated to other persons nor used to produce a computer program similar to the original program or to perform any other act that infringes copyright.

**(4) Computer programs shall be protected as literary works, regardless of their form and manner of expression. The author of a computer program shall enjoy all moral rights and economic rights referred to in Articles 9, 10 and 17.**

## **Chapter IV** **Authors' Contracts**

### *Transfer of Economic Rights by Author's Contract*

**Art. 24.**-(1) The economic rights referred to in Article 10 may be transferred by the author or other holder of copyright by means of an author's contract.

(2) Economic rights may be the subject of an author's contract for the transfer of exclusive rights (exclusive license) or an author's contract for the transfer of non-exclusive rights (non-exclusive license):

- (a) under an exclusive license, the sole licensee may use the work by specified means and within the limits laid down by the contract and has the right to authorize or prohibit similar use of the work by other parties;
- (b) under a non-exclusive license, the licensee may use the work in the same way as other persons who have obtained authorization to use it by the same means.

(3) Unless otherwise agreed by contract, the rights under an author's contract shall be deemed non-exclusive.

### *Conditions and Form of Authors' Contracts*

**Art. 25.**-(1) An author's contract shall set out the types of use of the work (the rights transferred by the contract), the term of the contract and the territory for which rights are transferred, the amount of remuneration or the conditions for determining such amount for each of the types of use of the work, the conditions and time limits for payment of the remuneration and any other conditions considered essential by the parties.

(2) If an author's contract does not stipulate the territory for which a right is transferred, such transfer shall have effect on the territory of the Republic of Moldova only.

(3) If an author's contract does not stipulate its term of validity, it shall be deemed to have been concluded for three years as from the date of conclusion if it concerns use of a work in its original form or for five years if it concerns use of a work in a modified form or in translation.

(4) The National Copyright Agency shall draw up model authors' contracts in collaboration with the organizations concerned.

(5) Any clauses in an author's contract that are contrary to the provisions of this Law shall be deemed null and void; the conditions set out in this Law shall apply in place thereof.

(6) Any clause in an author's contract that restricts the author's future faculty to create works on a given subject or in a given field shall be null and void.

(7) An author's contract shall define the remuneration in the form of a percentage of the revenue obtained from the use of the work by the envisaged means, in the form of a lump sum, in accordance with a scale or in any other way. The Government may set minimum rates



for the scale of author's remuneration. Where such rates have been fixed, no author's contract may foresee payment of lower remuneration.

## **Chapter V Neighboring Rights**

### ***Holders of Neighboring Rights; Scope of Neighboring Rights***

**Art. 26.**-(1) Performers, phonogram producers and broadcasting and cable distribution organizations shall be the holders of neighboring rights. Neighboring rights shall be exercised without prejudice to author's rights.

(2) Phonogram producers and broadcasting and cable distribution organizations shall exercise their rights under this Law on the basis of a contract concluded with the authors and performers (or group of performers) who perform the work that is recorded on a phonogram or is broadcast over the air or by cable.

(3) The generation and exercise of neighboring rights shall not be subject to compliance with any formality. In order to advertise their rights, phonogram producers and performers may place a reservation on each copy of a phonogram or on each phonogram sleeve, to be comprised of the following three elements:

(a) a circled capital letter P: (P)

(b) the name (designation) of the holder of the exclusive neighboring rights;

(c) the year of first publication of the phonogram.

(4) The rights of performers shall be protected in accordance with this Law if

(a) the performer is a national of the Republic of Moldova;

(b) the first performance took place on the territory of the Republic of Moldova;

(c) the performance was fixed on a phonogram meeting the conditions set out in paragraph (5) of this Article;

(d) the performance has not been fixed on a phonogram, but is included in a program broadcast by a broadcasting or cable distribution organization meeting the conditions set out in paragraph (6) of this Article.

(5) The rights of phonogram producers shall be protected in accordance with this Law if

(a) the phonogram producer is a national of the Republic of Moldova or a legal person with headquarters in the Republic of Moldova;

(b) the phonogram was published for the first time in the Republic of Moldova or was published here within 30 days of the date of its first publication in another State.

(6) The rights of broadcasting and cable distribution organizations shall be protected in accordance with this Law if the organization has its headquarters in the Republic of Moldova and broadcasts from transmitters located on the territory of the Republic of Moldova.

(7) The neighboring rights of foreign natural and legal persons shall be protected in accordance with the international agreements to which the Republic of Moldova is party.

### ***Rights of Performers***

**Art. 27.**-(1) A performer shall enjoy the following moral rights and economic rights with respect to his performance:

- (a) the right to be named;
- (b) the right to respect for his reputation – the right to protection of his performance against any mutilation or distortion or other derogatory act liable to prejudice his honor or dignity;
- (c) the right to exploit his performance in any form, including the right to remuneration for each form of use.

(2) A performer shall enjoy the exclusive right to authorize or to prohibit the following acts:

- (a) recording of a performance not previously recorded;
- (b) reproduction of the recording of a performance, except where reproduction is made for the same purposes for which he had given his consent when authorizing the recording;
- (c) broadcasting of the performance over the air or by cable or making any other communication of it to the public, except where a recording of the performance for which he has given his consent or a performance that has been broadcast over the air or by cable is used for that purpose;
- (d) renting of a published phonogram that incorporates a performance in which he has participated;
- (e) distribution, including resale of the originals and copies of the phonograms for commercial purposes.

(3) The authorizations referred to in paragraph (2) of this Article shall be given by the performer or, in the case of a collective performance, by the leader of the group or other person appointed by the group, by means of a written contract concluded with the user.

(4) The authorizations referred to in paragraph (2)(a) to (c) of this Article shall not be required for the rebroadcasting of a performance, recording for the purposes of broadcasting and reproduction of such recording by a broadcasting or cable distribution organization if such authorizations are explicitly contained in the contract concluded by the performer with such organization. The amount of the remuneration to be paid to the performer for such use shall also be stipulated in the contract.

(5) Conclusion of a contract to create an audiovisual work by a performer and the director shall imply transfer by the performer of the rights referred to in paragraph (2) of this Article.

(6) The director of an audiovisual work shall not be entitled to use the sound or the images fixed in such work separately unless such is foreseen in the contract.

(7) The exclusive right to exploit a performance created pursuant to explicit instructions by the employer or to service duties shall belong to the person to whom the interpreter is bound

by employment contract **for a period of three years**, unless otherwise provided in such contract.

(8) A performer may transfer the exclusive rights afforded by paragraph (2) of this Article to other persons by contract.

### ***Rights of Phonogram Producers***

**Art. 28** -(1) A phonogram producer shall enjoy the exclusive right to exploit his phonogram in any form, including the right to remuneration for each type of use of the phonogram.

(2) The exclusive right to exploit a phonogram shall mean the right to authorize or prohibit

- (a) reproduction of the phonogram;
- (b) distribution of copies of the phonogram (by sale, rental, etc.);
- (c) adaptation or any other transformation of the phonogram;
- (d) importation for the purposes of distribution of copies of the phonogram, including copies made with the authorization of the phonogram producer.

(3) Import and/or distribution by a natural person of a copy of a phonogram communicated to the public shall be permitted without the consent of the phonogram producer and without payment of remuneration.

(4) The right to distribute copies of a phonogram by rental shall belong to the phonogram producer irrespective of any right of ownership in the copies.

(5) A phonogram producer may transfer the exclusive rights afforded by paragraph (2) of this Article to other persons by contract.

### ***Rights of Broadcasting and cable Distribution Organizations***

**Art. 29** -(1) A broadcasting or cable distribution organization shall enjoy the  
2. exclusive right to exploit its broadcast in any form, including the right to remuneration for each type of use of the broadcast.

(2) The exclusive right to exploit a broadcast shall mean the right to authorize or to prohibit

- (a) recording of the broadcast;
- (b) reproduction of a recording of the broadcast;
- (c) simultaneous broadcasting of the broadcast by another broadcasting or cable distribution organization;
- (d) communication of the broadcast to the public over the air or by cable;
- (e) communication of the broadcast to the public in places to which a charge is made for admission.

***Limitation of the Rights of Performers, Phonogram Producers and  
Broadcasting and Cable Distribution Organizations***

**Art. 30.**-(1) Notwithstanding the provisions of Articles 27 to 29 of this Law, it shall be permissible to use a performance, a phonogram or a program broadcast or transmitted by cable, or recordings thereof, without the consent of the performer, the phonogram producer or the broadcasting or cable distribution organization and without payment of remuneration.

- (a) in order to quote short extracts of the performance, the phonogram or the program broadcast or transmitted by cable, on condition that the quotation is made for the purposes of science, research, polemics, criticism or information and that it remains commensurate with such aims;
- (b) in teaching or scientific research as an illustration in the form of short extracts;
- (c) for inclusion in the reporting of current events of short extracts from the performance, the phonogram or the program broadcast or transmitted by cable;
- (d) in the cases referred to in Article 22.

(2) It shall be permissible, without the consent of the performer, the phonogram producer or the broadcasting or cable distribution organization, for natural persons to use performances, broadcasts or recordings thereof or to reproduce phonograms for personal purposes. Such acts shall be subject to payment of remuneration as set out in Article 20.

(3) Application of the limitations on neighboring rights shall in no way prejudice either the normal exploitation of the subject matter of neighboring rights or normal exploitation of the works incorporated therein and shall not prejudice either the legitimate interests of the performer, the phonogram producer or the broadcasting or cable distribution organization or those of the authors of the works involved.

***Use of Phonograms Published for Commercial Purposes***

**Art. 31.**-(1) The following acts shall be permitted without the consent of the producer of a phonogram published for commercial purposes and of the performer whose performance is recorded on such phonogram, subject to payment of remuneration:

- (a) public performance of the phonogram;
- (b) communication of the phonogram over the air;
- (c) communication of the phonogram by cable.

(2) The collection, distribution and payment of the remuneration referred to in paragraph (1) of this Article shall be carried out by one of the organizations for the collective administration of the rights of phonogram producers and performers, in accordance with an agreement concluded by those organizations. Unless otherwise stipulated in the agreement, the remuneration thus collected shall be distributed as follows: 40% to the authors, 30% to the performers and 30% to the phonogram producers.

(3) The amount of the remuneration applicable to each type of use of a phonogram and the manner of its payment shall be determined by agreement between the user of the phonogram or the unions (associations) of users, on the one hand, and the organizations for the collective

administration of the rights of phonogram producers and performers, on the other, or, if the parties do not reach an agreement, by a body specially empowered to that effect.

***Ephemeral Recording of a Performance or of a Program Broadcast by a Broadcasting or Cable Distribution Organization***

**Art. 32.** A broadcasting or cable distribution organization may, without the consent of the performer, the phonogram producer or the broadcasting or cable distribution organization concerned, make an ephemeral recording of a performance or a broadcast and reproduce such recording

- (a) if it has obtained prior authorization to broadcast the performance or program concerned by the ephemeral recording it wishes to make or to reproduce;
- (b) if it makes such ephemeral recording and reproduces it using its own facilities and for its own broadcasts;
- (c) on condition that it destroys such recording at the latest on expiry of the period of time referred to in Article 22(1)(b) with respect to ephemeral recordings of literary, artistic or scientific works.

***Term of Neighboring Rights***

**Art. 33.**-(1) The rights of performers referred to in Article 27 shall have effect for 50 years as from the first performance. The performer's right to be named and his right for respect for his reputation shall be protected without limitation in time.

(2) The rights of phonogram producers referred to in Article 28 shall have effect for 50 years as from first publication of the phonogram or for 50 years as from its first recording if the phonogram is not published during that period.

(3) The rights of broadcasting or cable distribution organizations referred to in Article 29 shall have effect for 50 years as from the broadcasting or cable transmission of the program by such organization.

(4) The periods of time referred to in paragraphs (1), (2) and (3) of this Article shall be computed as from January 1 of the year following that in which the legal event that initiates the period has occurred.

(5) The rights afforded by this Chapter shall pass to the heirs (in the case of a legal person, to his successors in title) of the performer, the phonogram producer or the broadcasting or cable distribution organization, for the remainder of the periods of time referred to in paragraphs (1), (2) and (3) of this Article.

(6) After the death of a performer, the protection of his moral rights shall be assumed in accordance with Article 17(9).

**Chapter VI**  
**Collective Administration of Economic Rights**

*Functions of State Agencies*  
*in the Protection of Copyright and Neighboring Rights*

**Art. 34.**-(1) The National Copyright Agency shall be responsible for protecting the rights of authors and holders of neighboring rights.

(2) The National Copyright Agency shall have the following main functions:

- (a) draw up national policies in the field of copyright and neighboring rights legislation and submit proposals to improve such legislation;
- (b) ensure compliance with the legislation applicable in that field;  
**draw up, where necessary, official reports on infringement of copyright and/or neighboring rights in accordance with the Minor Offences Code;**
- (c) provide legal assistance to the holders of copyright and neighboring rights;
- (d) represent the Republic of Moldova in the international organizations that are concerned with the protection of copyright and neighboring rights;
- (e) effect the registration of works in accordance with Article 8(3) to (5);
- (f) supervise the operation of the organizations for the collective administration of economic rights;
- (g) carry out any other task assigned to it by the Government.

*The National Copyright Agency*

**Art. 34/1 – (1) The National Copyright Agency has the status of a legal person and is answerable to the Government.**

**(2) The National Copyright Agency is managed by the Director General, appointed and dismissed by the Government.**

(3) The Regulation of the National Copyright Agency shall be elaborated in accordance with the present Law and shall be approved by the Government.

*Establishment of Organizations for the*  
*Collective Administration of Economic Rights*

**Art. 35.**-(1) Where the individual exercise of copyright and neighboring rights encounters difficulties, there shall be established organizations for the collective administration of economic rights. Such organizations shall operate in accordance with this Law, on the basis of statutes and within the limits of the powers they receive from the holders of copyright and neighboring rights (authors of literary, artistic or scientific works, performers, phonogram producers, etc.).

(2) The operation of the organizations for the collective administration of economic rights shall be self-financed.

(3) There may be established either organizations administering a specific type of right on behalf of various categories of holder or organizations administering various rights on behalf of a single category of copyright holder or organizations administering various rights for various categories of holder.

(4) Organizations for the collective administration of economic rights shall be established directly and freely by the holders of copyright or neighboring rights who shall either become members of the organization or shall empower it by written contract.

(5) Organizations for the collective administration of economic rights shall not be authorized to carry on a commercial activity nor to exploit the works and subject matter of neighboring rights for which they have received powers of collective administration.

(6) An organization that has granted a license shall be required to settle any dispute arising from an economic claim asserted by the holder of copyright or neighboring rights with regard to the users concerning exploitation of a work or of the subject matter of neighboring rights under license.

#### *Functions and Obligations of Organizations for the Collective Administration of Economic Rights*

**Art. 36.**-(1) Organizations for the collective administration of economic rights shall assume, on behalf of the holders of copyright and neighboring rights they represent and on the basis of the powers given to them, the following functions:

- (a) negotiate with users the amount of remuneration and other conditions under which licenses shall be granted;
- (b) grant licenses to users for the exploitation of the works for whose administration they are responsible. **These licenses shall allow the exploitation, in the manner indicated in them, of all works and subject matter of neighboring rights and shall be granted in the name of all holders of copyright or neighboring rights, including those who have not transferred their economic rights to such an organization, taking into account the rights referred to in paragraph (5) of this Article;**
- (c) negotiate with users the amount of remuneration in those cases where they are only responsible for collecting such remuneration, without being empowered to grant licenses;
- (d) collect the remuneration stipulated by the licenses they grant and the remuneration referred to in paragraph (1)(c) of this Article;
- (e) distribute and pay the remuneration obtained to the holders of copyright and neighboring rights they represent;
- (f) perform any legal act essential for the defense of the rights for whose administration they are responsible;
- (g) perform any other activity pursuant to the powers received from the holders of copyright and neighboring rights.

(2) The organizations for the collective administration of economic rights shall be entitled to require users of works or of subject matter of neighboring rights to provide them with the programs and other duly certified documents specifying the works used and the revenue obtained; they may also require payment of remuneration within given time limits.

(3) An organization for the collective administration of economic rights shall be obliged in the interests of the holders of copyright and neighboring rights:

- (a) to use the remuneration obtained exclusively for distribution and payment to the holders of copyright and neighboring rights; however, an organization shall be entitled to deduct from the amount of the remuneration obtained an amount intended to cover the actual expenditure incurred for the collection, distribution and payment of remuneration and an amount intended for a special fund set up by the organization on a decision by its members;
- (b) to distribute, after deduction of the amounts referred to in paragraph (3)(a) of this Article, the remuneration obtained and effect its regular payment, in proportion to the actual use of works and subject matter of neighboring rights;
- (c) simultaneously with the payment of the remuneration, to render accounts to the holders of copyright and neighboring rights of the use of their rights.

(4) An organization for the collective administration of economic rights shall be entitled to dispose of the amounts of remuneration obtained from users that have not been claimed within three years of the day on which they have been paid into its account, either by adding them to the amounts to be distributed or by allocating them to other purposes for the benefit of the holders of copyright and neighboring rights that it represents.

(5) The holders of copyright and neighboring rights who have not given powers to an organization for the collective administration of economic rights for the collection of remuneration in accordance with paragraph (1)(d) of this Article shall be entitled to require such organization to pay to them the remuneration due to them or to require it to exclude their works and subject matters of neighboring rights from the licenses it grants to users.

(6) Each organization for the collective administration of economic rights shall provide the National Copyright Agency with the following information on its activities:

- (a) bilateral and multilateral agreements concluded with foreign organizations that administer similar rights;
- (b) decisions of the general meetings concerning the amount of fees and of deductions;
- (c) annual accounts, annual reports and auditors' reports;
- (d) persons authorized to represent it;
- (e) any other information required by the Agency to check that the operation of the organization complies with the provisions of this Law.



## **Chapter VII**

### **Infringement of Copyright and Neighboring Rights**

#### ***Infringement of Copyright and Neighboring Rights; Infringing Copies of Works and Phonograms***

**Art. 37.**-(1) Any use of a literary, artistic or scientific work that infringes the copyright or neighboring rights afforded by this Law shall be unlawful.

(2) Copies of a work or a phonogram the manufacture or distribution of which infringes copyright or neighboring rights shall constitute infringing copies.

(3) Copies of works or phonograms protected under this Law in the Republic of Moldova which are imported without the consent of the holder of copyright or neighboring rights from States in which the works or phonograms have never been protected or have ceased to be protected shall also constitute infringing copies.

(4) Infringing copies of a work or phonogram may be confiscated by court decision or by an arbitration award. Destruction of the materials and equipment used in their manufacture may also be ordered, depending on the nature of the infringement of copyright and neighboring rights.

(5) Infringing copies of a work or phonogram that have been confiscated may be handed on request to the holder of copyright or neighboring rights. Where the holder of copyright or neighboring rights has not requested that the infringing copies of a work or phonogram be handed to him, they shall be sold or destroyed by court decision or arbitration award. Confiscated materials and equipment used in the manufacture of infringing copies shall become the property of the State by court decision or arbitration award.

(6) Infringing copies of a work or phonogram that have been lawfully acquired by other persons shall not be subject to confiscation.

#### ***Remedies in Copyright and Neighboring Rights***

**Art. 38.**-(1) A holder of exclusive rights, whether copyright or neighboring rights, may require a person infringing his right

- (a) to acknowledge those rights;
- (b) to restore the situation that existed prior to infringement of his rights and to cease committing the acts that infringe or are liable to infringe his rights;
- (c) to pay damages, including damages for loss of earnings;
- (d) to surrender, in place of payment of damages, the revenue obtained through the infringement;
- (e) to pay an indemnity, in place of damages or surrender of revenue, of between 10 and 20,000 times the minimum wage.

(2) The holder of copyright or neighboring rights may choose freely between the measures set out in paragraph (1)(c) to (e) of this Article.

**(3) Any person who infringes copyright or neighboring rights shall be liable to the civil, administrative and criminal sanctions provided by law.**

(4) An author or a holder of neighboring rights whose moral rights have been infringed may take legal action against the infringer for

- (a) the necessary corrections to the work and publication in the press, or notification by any other means, of the reinstatement of the author or holder in his rights;
- (b) prohibition to publish the work or injunction to cease distribution of the work and confiscation of published copies;
- (c) material damages for the moral prejudice suffered, in accordance with the law.

(5) Any person who knowingly or by negligence destroys the original of a work of fine art, a manuscript or a master copy of an audiovisual work (negative, original recording) shall, if the author or holder of neighboring rights so requires, make good the material and moral prejudice suffered, in accordance with the provisions of paragraphs (1), (3) and (4) of this Article.

(6) Before examining the case on its merits, the court may issue an order enjoining the defendant, or the person that it has good reason to believe is infringing copyright or neighboring rights, from performing certain acts: manufacture, reproduction, sale, rental, importation, etc.

(7) If a legal person commits an isolated or a systematic serious infringement of copyright or neighboring rights, the court may order a suspension of activities of up to 30 days and, in accordance with administrative law, sentence the responsible director to a fine of between 30 and 100 times the minimum wage.

(8) The court shall be required to order the descriptive or actual seizure of all allegedly infringing copies of works or phonograms together with the materials and equipment used for their manufacture and reproduction.

(9) Where sufficient evidence of an infringement of copyright or neighboring rights has been gathered, the body responsible for the inquiry or examination of the case shall be required to take the necessary measures to locate and effect descriptive seizure

- (a) of the allegedly infringing copies of works or phonograms;
- (b) of the materials and equipment used in their manufacture and reproduction;
- (c) of the accounts and other documents that may provide evidence of the acts performed contrary to this Law.

(10) The customs authorities shall be entitled to seize copies of works or phonograms that have been the subject of attempted unauthorized importation or exportation. If such copies of works or phonograms prove to be infringing, the court may order any one of the measures referred to in paragraph (1)(c) to (e) of this Article against the infringer.

(11) Natural persons holding copyright or exclusive neighboring rights who themselves institute legal proceedings or who empower the National Copyright Agency or an organization for the collective administration of economic rights to do so on their behalf shall

be exempted from court costs. The court may decide in such case to sentence the person found guilty of infringement of copyright or neighboring rights to pay the court costs in accordance with the conditions and in the amount laid down by law.

(12) Independently of the civil and administrative sanctions provided for by this Article, the person committing an intentional infringement of copyright or neighboring rights for gain and having caused considerable prejudice to the holder of the rights shall be liable to a term of imprisonment of between one and three years or to a fine of between 100 and 1,000 times the minimum wage or to both. Where such act is committed by a legal person, the director responsible shall be liable to penal sanctions if he knew or could be expected to know that such act infringed copyright or neighboring rights.

## **Chapter VIII** **Welfare Law Protection of** **Authors and Holders of Neighboring Rights**

### *Guarantees in Respect of Economic Rights*

**Art. 39.**-(1) This Law aims to strengthen the legal, economic and welfare guarantees afforded to authors and holders of neighboring rights in the exercise and protection of their potential for intellectual creativeness and for the defense of their moral rights and their economic rights.

(2) The economic rights of authors and holders of neighboring rights shall be protected in accordance with the laws on remuneration for work. The remuneration of authors shall not be subject to value-added tax.

(3) In order to protect the economic rights of authors and holders of neighboring rights from the effects of inflation, the minimum rates for authors laid down for the creation, publication and first public performance of a work shall be indexed to the development of the minimum wage.

(4) The protection afforded by this Law shall extend to works by authors who have not reached the age of majority. Authors aged between 15 and 18 years shall exercise their rights independently, they shall sign their contracts, make modifications to their works or authorize modifications to be made and receive themselves the author's remuneration.

(5) The organizations for the collective administration of economic rights may establish welfare funds and other funds of which the assets shall not be subject to taxation.

### *Rights of Independent Creators*

**Art. 40.**-(1) The protection afforded by this Law shall extend to the copyright of independent creators.

(2) Independent creator (composer, writer, painter, director, cameraman) means a person who, having training and professional experience in the field of creation concerned, exercises an intellectual activity in an independent manner and does not maintain standing employment relationships with any legal person.

(3) The profession of independent creator presumes maximum freedom in the choice of working and resting arrangements and in the field of application of the potential for intellectual creativeness.

(4) In the event of inability to work, an independent creator shall be entitled to the indemnities paid to him by the authors' society of which he is a member.

(5) The State shall pay to independent creators a retirement pension, an invalidity pension, for the loss of family support and in the other cases provided for by law.

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