

**Law on Copyright and Related Rights*****(of September 12, 1996, as amended by the Law of January 22, 1998)**

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CHAPTER I GENERAL PROVISIONS

1. This Law regulates the rights of authors in their works of literature, science and art (hereinafter “copyright”) and the rights of performers, producers of phonograms, film producers and stage producers, broadcasting organizations and publishers (hereinafter “related rights”) in their performances and other subject matter of related rights, as well as the implementation and protection of copyright and related rights.

2. Within the meaning of this Law

(1) “public” means the availability of a copyright work, under equal conditions, to an unspecified number of persons outside the usual family circle or the circle of personal acquaintances;

(2) “disclosure” means making available to the public of a copyright work, in any manner or form;

(3) “reproduction” means making a copy of a copyright work fixed on a material medium, regardless of the type of copy, the number of copies and the method;

(4) “distribution” means putting into circulation or offering to the public an original or a copy of a copyright work by sale or other form of transfer of ownership, including the importation of an original or a copy for further circulation;

(5) “publication” means reproduction of a copyright work in a sufficient number of copies and their distribution;

(6) “rental” means offering the use of an original or a copy of a copyright work for a limited period of time, for the purpose of direct or indirect economic benefit;

(7) “public performance” means live disclosure, or disclosure via technical means, of a literary or musical work, including live disclosure of a stage work;

(8) “public transmission” means disclosure of a performance or other use of copyright outside the space or place of performance or other use, regardless of the means, manner and method of transmission (loudspeaker, screen and the like);

(9) “public presentation” means disclosure, via technical means, of a cinematographic or other audiovisual work or work of photography, fine art, architecture, urbanism, applied art, design, cartography and works of a scientific and technical nature;



(10) “public exhibition” means disclosure of an original or a copy of a work of fine art or photography or a work produced in a manner analogous to photography, a work of applied art, design, as well as works of a scientific and technical nature;

(11) “broadcasting” means disclosure of copyright works via radio and television program signals, wireless, including satellite in coded or non-coded forms or by wire, including cable or microwave systems. Broadcasting also covers transmission via television program signals on demand;

(12) “rebroadcasting” means simultaneous, complete and unaltered disclosure of a work already broadcast, when done by other radio or television organization or when transmitted via cable or microwave systems and involving more than 100 cable connections or the work is initially transmitted from another country (cable retransmission);

(13) “modification” means translation, reworking, adaptation, arrangement or other method of transformation of an original copyright work.

CHAPTER II COPYRIGHT

Section 1 Copyright Work

3. A copyright work, within the meaning of this Law, is an individual and intellectual creation of literature, science, the arts and other domains of creation, regardless of the type, manner and form of expression, unless otherwise provided in this Law.

A copyright work shall include, in particular,

- a written work such as a literary work, article, essay, manual, brochure, scientific study, treatise and the like;
- a computer program, as a literary work;
- a spoken work, such as an address, sermon, lecture and the like;
- a musical work with or without words;
- a dramatic, dramatico-musical work and a work of puppetry;
- a choreographic work and a work of pantomime, fixed on a material medium;
- a photographic work and a work produced in a manner analogous to photography;
- a cinematographic and other audiovisual work;
- a work of fine art, such as a painting, graphics, sculpture and the like;
- an architectural work;
- a work of applied art and design;



— a cartographic work, plan, sketch, technical drawing, project, table, plastic work and other work of identical or similar character in the domain of geography, topography, architecture or other scientific, educational, technical or artistic nature.

4. Component parts and the title of a copyright work that are individual intellectual creations by themselves shall enjoy the same protection as the work itself.

It shall not be permitted to use for the title of a copyright work a title that has already been used for a work of the same type, if that title would create or would lead to confusion in respect of the copyright work.

5. An idea, concept, discovery or an official text from the legislative, executive or judicial sphere and their translation when published as an official text (hereinafter “other work”), within the meaning of this Law, shall not be considered a copyright work.

6. The modification of a copyright work, other work or a work of folk literature and folk art that is an individual and intellectual creation shall be considered an independent copyright work.

The modification of a copyright work that in any way affects the rights of the author of the original work shall not be permitted.

7. A collection of copyright works, works of folk literature and folk art, other works or other materials such as an encyclopædia, anthology, miscellany, database, collection of documents and other collections which, according to the selection, purpose or arrangement of their contents, constitute individual and intellectual creations, shall be an independent copyright work.

The inclusion of an original work in a collection may not infringe the author’s rights in such work.

The inclusion of other works or other material in a collection shall not make such work or other material a copyright work.

8. Works of folk literature and folk art shall be used in accordance with this Law.

Section 2 **The Author**

9. The author, within the meaning of this Law, is the natural person who has created a copyright work.

10. A person whose name, pseudonym or designation is shown in the customary manner on the work or is stated at the time of its disclosure shall be considered the author, unless proved to the contrary.

Where the author is unknown, the person who discloses the work shall be entitled to exercise the author’s copyright.



The provision of the second paragraph of this Article shall cease to apply when the author has been identified. In such case, the copyright holder under the second paragraph shall be obliged to assign to the author the benefits deriving from the author's copyright, unless otherwise provided by contract.

11. If a copyright work created by two or more persons in collaboration constitutes an indivisible whole, all such persons (hereinafter "co-authors") shall enjoy jointly the copyright in that work.

The share of each co-author shall be in proportion to the actual contribution of each author to the creation of the copyright work, unless otherwise provided by contract between them.

All co-authors shall jointly decide on the use of a work under the first paragraph of this Article, and none of them shall have the right to prevent the use of the work without good reason or contrary to the principle of good faith.

If a copyright work, within the meaning of the first paragraph of this Article, constitutes a divisible whole, each co-author shall enjoy copyright in his own contribution to the work.

12. If two or more authors compile their works for the purpose of joint use, the provisions of Article 11 of this Law shall apply *mutatis mutandis*.

Section 3 **Content of Copyright**

Subsection 1 *General Provisions*

13. Copyright shall belong to the author on the basis of his creation of the work, regardless of whether it has been disclosed.

14. Copyright shall be an integral right indivisible from the copyright work, comprising exclusive personal prerogatives (hereinafter "moral rights"), exclusive property rights (hereinafter "economic rights") and the other rights of the author (hereinafter "other rights").

Subsection 2 *Moral Rights*

15. Moral rights shall protect the author in respect of his personal and intellectual relations with the work.

16. The author shall have an exclusive moral right to

- decide whether, when and how his work shall be disclosed for the first time;
- recognition of his authorship of the work;



- determine whether his authorship shall be specified at the time of disclosure of the work and the type of designation;
- require his name, pseudonym or other designation to be mentioned on every use of his work in the customary manner;
- protect the integrity of the work and prohibit any distortion, mutilation or alteration of the work, and object to any use of the work which would be prejudicial to his personality, honor or reputation;
- alter the work insofar as this does not infringe the rights acquired by other persons;
- withdraw the rights of a holder of the economic rights, according to this Law.

17. The author shall have the exclusive right to withdraw the assigned economic rights from their holder, if he has good moral reasons for doing so and if he has previously indemnified the holder for the damage caused by such withdrawal.

A holder under the first paragraph of this Article shall be obliged, within three months of receipt of the withdrawal, to notify the author of the amount of damages to be indemnified. If he does not do that, the withdrawal shall become valid on the expiration of that period.

On the exercise of the right of withdrawal under the first paragraph of this Article, the economic rights of the holder shall lapse.

If the author wishes later to reassign an economic right in his work, he shall be obliged, within a period of three years after the validity of the right of withdrawal, to offer such assignment first and under the same conditions to the previous holder under the first paragraph of this Article.

The provisions of this Article shall not apply to computer programs, audiovisual works, stage works and databases.

Subsection 3 Economic Rights

18. Economic rights shall protect the property interests of the author.

The use of the copyright work shall be permitted if the author has assigned the economic rights in accordance with this Law, under the conditions he has determined, unless otherwise provided by this Law.

19. The author shall have the exclusive economic right to use his work and to authorize or prohibit the use of the work by other persons, in particular for reproduction, distribution, rental, public performance, public transmission, public presentation, public exhibition, broadcasting, rebroadcasting and modification.

The author of the original work has an exclusive right to use his modified work, unless otherwise provided by this Law or by contract.

Subsection 4
Other Rights of the Author

20. The author shall have a right of access to the original or to a copy of his work in the possession of another person, for the purpose of exercising the right of reproduction or modification of the work if this does not adversely affect the legitimate interest of the possessor.

The author shall have the right to require the possessor to deliver to him the original of a work of fine art or of a photographic work for the purpose of public exhibition or other form of disclosure, if he has a legitimate interest therein.

The delivery of the original under the second paragraph of this Article may be conditional on a guarantee deposit or insurance in the amount of the market value of the original.

The author shall be obliged to carry out the access and delivery under the first and second paragraphs of this Article with the least possible inconvenience to the possessor and at his own expense. The author shall be liable in case of damage to the work, regardless of fault.

21. If the original of a work of fine art or the original (manuscript) of a literary or musical work is sold or disposed of in some other way, its author shall have the right to be notified and to obtain remuneration amounting to 3% of the retail price of every subsequent resale (hereinafter “resale royalty right”).

The possessor of the work shall be liable for the obligations under the first paragraph of this Article. If the transfer of ownership is effected through a gallery owner, auctioneer or other agent, such persons shall be jointly liable with the possessor of the work.

The obligation to notify under the first paragraph of this Article refers to the particulars of the titles of the transferred works, of the possessor and the agent, of the retail selling price and of the author’s right to inspect the documents which contain such particulars.

The resale royalty right may not be subject to revocation, disposition or judicial execution.

Subsection 5
Relations Between Copyright and Right of Ownership

22. Copyright is independent of and compatible with ownership or other property rights in an object in which the copyright work is incorporated, unless otherwise provided by law.

23. The transfer of certain economic rights or other rights of the author of the work shall not affect the ownership right in the object in which the copyright work is incorporated, unless otherwise provided by law or contract.

The transfer of the right of ownership in the object under the first paragraph of this Article shall not affect the moral, economic or other rights of the author of the work, unless otherwise provided by law or contract.



24. The joint property of spouses shall include only the economic benefits deriving from the copyright.

25. With the first sale or other type of transfer of ownership rights in an original or copy of a copyright work in the Republic of Macedonia¹, carried out with the explicit or tacit consent of the right holder, it shall be considered that the right of distribution of such original or of a copy, on the territory of the Republic of Macedonia has been exhausted.

26. If the owner of an architectural structure intends to modify that work, he shall be obliged to propose that modification to the author of the original work first, if he is alive and attainable in a normal manner.

If the author unjustifiably refuses an offer under the first paragraph of this Article, the owner of that work shall obtain the right of modification, but he shall be obliged to respect the author's moral rights.

27. If the owner of the original of the copyright work, bearing in mind the circumstances of the case, assumes that the author has an interest in its preservation, he may not destroy such original before offering it to the author, and the author shall be obliged to pay the value of the material from which the original has been made.

If the return of the work to its author under the first paragraph of this Article is not possible, the owner shall give the author an opportunity to make a copy of the original work in an appropriate manner.

If the copyright work under the first paragraph of this Article is an architectural structure, the author shall have the right to take photographs of the work and to gain access to make a cartographic record of it, that is to say a measured survey of the structure, and to require the provision of photocopies of the designs at his own expense.

Section 4

Limitation of Economic Rights

28. The use of a copyright work without the assignment of an appropriate economic right may only be made in respect of copyright works already disclosed in the cases provided by this Law, with remuneration (hereinafter "legal license") and without remuneration (hereinafter "free use").

The use under the first paragraph of this Article shall be made in accordance with the purpose and aim and in the customary manner, and shall not unduly prejudice the interests of the author.

In any use under the first paragraph of this Article, the source and the author of the work shall be named, provided these are mentioned in the work used.



*Subsection 1
Legal Licenses*

29. It shall be permissible by law to use a copyright work in the following cases:

— disclosure or reproduction of parts of copyright works as well as works of photography, fine and applied art, architecture, design and cartography, for teaching purposes; and

— disclosure of articles on current topics in the daily or periodical press concerning general issues, if the author has not expressly prohibited it.

30. With the exception of audiovisual works, it shall be permitted by law for broadcasting organizations to broadcast fixations of copyright works recorded by means of mechanical reproduction or similar means.

*Subsection 2
Free Use*

31. A copyright work may be freely used for the purpose of acquiring information of general significance, for teaching purposes, for private and other individual reproduction, quotation and other cases, in accordance with this Law.

32. For the purpose of acquiring information of general significance, disclosure shall be free

— for works that are seen or heard during reports on daily events;

— for public political speeches and public speeches before State, religious or other bodies;

— for daily news and press information.

33. For teaching purposes, public performing of a copyright work shall be free

— in direct teaching form;

— for humanitarian events and at school performances to which admission is free, if the participants in such events or performances are not remunerated.

34. The reproduction of a copyright work, if made in not more than three copies, shall be free

— for private use by a natural person on condition that copies are not available to the public;

— for internal use by public institutions (archives, libraries, film archives and cultural, educational, scientific and similar institutions) on condition that the reproductions are made from their own copy.



Reproduction, within the meaning of the first paragraph of this Article, shall not apply to a literary work in the case of a complete book (except where the edition is at least two years old), cinematographic or other audiovisual work or phonogram, a graphic edition of a musical work (except a handwritten transcription), database, computer program, or architectural structure, unless otherwise provided by this Law.

35. For the purpose of clarification, debate or reference, it shall be free to quote a copyright work to the extent adequate to the purpose and aim of the use.

36. The use of a copyright work of secondary importance in relation to the purpose of some object shall be free during the exploitation of that object.

37. Modification of a copyright work shall be free if it concerns

— a private or other individual transformation not intended for or available to the public;

— a transformation into a parody or caricature, if this does not lead to confusion with regard to the source of the work;

— a transformation for a permitted use, and the author's objection to such modification is without good reason or contrary to the principle of good faith.

38. Copyright works displayed at public exhibitions, sales, auctions, fairs and the like may be disclosed in catalogues for that purpose by the organizers thereof.

39. Copyright works permanently exposed in parks, streets, squares or other public places may be used freely, except when the use is in a three-dimensional form, for the same purpose as the original work or for obtaining an economic benefit.

40. Copyright works may be used freely before an arbitration court, judicial, administrative or other State body, to the extent necessary for the purposes of evidence.

41. Copyright works may be used freely to the extent necessary to test the operation at the time of manufacture or sale of phonograms or videograms, equipment for their reproduction or disclosure, as well as program-receiving equipment in the process of their manufacture and sale.

42. Works of folk literature and folk art may be used freely.

In the event of use under the first paragraph of this Article, the source and origin of the work shall be stated. Distortion and indecent use of the work shall not be permitted.

The Marko Cepenkov Folklore Institute in Skopje shall be authorized for the implementation of the rights under the second paragraph of this Article.

Section 5 **Duration of Copyright**

43. Copyright shall subsist until expiration of the terms provided by this Law.



As an exception to the first paragraph of this Article, certain moral rights shall subsist after the expiration of the term of copyright under this Law.

44. Copyright shall subsist for the lifetime of the author and for 70 years after his death, unless otherwise provided by this Law.

45. Where the work has been created by a number of authors (co-authors), the term in accordance with Article 44 of this Law shall be calculated from the death of the last surviving co-author.

46. Copyright in anonymous and pseudonymous works shall subsist for 70 years after the legal disclosure of the work.

If the pseudonym does not cause confusion as to the identity of the author, or if the author discloses his identity within the term referred to in the first paragraph of this Article, the term under Article 44 shall apply.

47. Copyright in audiovisual and collective works shall subsist for 70 years after the legal disclosure of the work.

48. Where the term according to this Law does not run from the death of the author or the authors and the work has not been legally disclosed within 70 years from its creation, the copyright shall subsist for 70 years after its creation.

49. Where the term of copyright, within the meaning of this Law, is calculated according to the legal disclosure of the work and the work is disclosed in collections, parts, installments and the like, the term shall be calculated separately for each component.

50. Insubstantial additional alterations to the contents of a collection shall not extend the duration of the copyright protection of such collection.

Additions, deletions or alterations to the selection or to the arrangement of the contents of the collection which are necessary for its further use in the manner determined by its author shall be considered insubstantial additional alterations under the first paragraph of this Article.

51. The terms of copyright protection provided by this Law shall begin on January 1 of the year following the event that is the basis for the calculation of the terms.

52. The moral right of withdrawal under Article 17 of this Law shall subsist for the lifetime of the author.

The moral rights to be named as author, of preservation of the integrity of the work and of objection to its distortion under the third, fourth and fifth items of Article 16 of this Law, shall subsist after the expiration of the terms of copyright provided by this Law.

53. The use of a copyright work shall be free on the expiration of the terms of copyright provided by this Law.

54. The relevant society of authors and the Macedonian Academy of Sciences and Arts shall be authorized for the implementation of the rights under the second paragraph of Article 52.

CHAPTER III TRANSFER OF COPYRIGHT

Section 1 General Provisions

55. Copyright in its entirety may not be transferred.

56. The author may not assign his moral rights to other persons.

In addition to the author's successors, the relevant society of authors shall be authorized to exercise the author's moral rights after his death,

57. The author may assign certain economic rights and certain other rights to other persons either by contract or in another legal manner, unless otherwise provided by this Law.

The assignment of economic rights or other rights shall be carried out in a written form, unless otherwise provided by this Law. An assignment contract that is not concluded in a written form shall not produce legal effects.

Disputed or dubious provisions of the contracts under the first paragraph of this Article, shall be interpreted in the author's interest.

58. The provisions concerning the author's contracts in written form under Article 57 of this Law shall not apply to contracts for disclosing articles, drawings or texts in magazines, reviews or other daily or periodical press.

59. A contract or a contractual provision shall be null and void in which the author has assigned to another person

- copyright in its entirety;
- moral rights;
- economic rights in his future works;
- economic rights in as yet unknown forms of use of the copyright works.

60. The regulations concerning contractual obligations shall apply to copyright assignment contracts, unless otherwise provided by this Law.

61. Copyright shall not be subject to judicial execution.

Judicial execution shall be possible only with respect to the material benefit arising from copyright.

Incomplete copyright works and undisclosed originals of copyright works shall not be subject to judicial execution.

62. The rights to which the author is entitled under this Law, including the right of legal protection, shall also belong to any other copyright holder, to the extent provided by law or other statutory regulation, unless otherwise provided by this Law.

63. The exclusive and non-exclusive economic rights under Article 57 of this Law may be assigned.

64. An exclusive economic right, within the meaning of this Law, shall be a right for the copyright holder to use the work, from which use the author or any other person is excluded.

A non-exclusive economic right, within the meaning of this Law, shall be a right for the copyright holder to use the work as well as the author and other right holders in an agreed manner.

If the author concludes a contract for a non-exclusive right before concluding a contract for an exclusive right, the right holder shall be the holder of the exclusive right, unless otherwise agreed between the author and the holder of the non-exclusive right.

65. Unless otherwise provided by law or by contract, it shall be considered that the non-exclusive right has been assigned by contract, for the territory of the Republic of Macedonia and for the time customary for such type of work.

If it has not been determined which rights shall be assigned and to what extent, within the meaning of the first paragraph of this Article, it shall be considered that only those rights have been assigned, and to the extent which is required for the achievement of the purpose of the contract.

66. The assignment of an economic or other right to the author shall not affect the assignment of other rights, unless otherwise provided by this Law or by contract.

The assignment of the right of reproduction shall not include the right of electronic storage, as well as the right of sound or visual recording, unless otherwise provided by law or by contract.

On the assignment of the right of rental of phonograms or videograms, the author shall retain the right to equitable remuneration for each rental. An author may not waive this right.

67. With the assignment of the right of reproduction, it shall be considered that the right of distribution of such copies of the work has also been assigned.

With the assignment of the right of broadcasting of works, it shall be considered that the rights have been assigned to the broadcasting organization (hereinafter “broadcaster”) for

— the fixation of the work with its own means and for its own broadcasts (ephemeral fixations);

— the delivering of the ephemeral fixations to a State archive, if they are of exceptional documentary value. The organization shall be obliged to notify the author of such delivery without delay.

68. A right holder who has been assigned an economic right or any other author's right may not, without the author's authorization, reassign that right to a third party, unless otherwise provided by law or by contract.

If the reassignment of the right results from a change of status, bankruptcy or regular liquidation, consent under the first paragraph of this Article shall not be required.

If the reassignment of the right is allowed without the author's authorization, by law or contract, the previous and subsequent holder shall be jointly liable for the discharge of the author's claims.

69. Where the author's remuneration has not been determined, it shall be determined according to the customary fees for particular types of work, according to the extent and duration of the use and other relevant circumstances.

If the use of a copyright work results in a profit which is significantly larger than the agreed or determined remuneration, the author may demand a revision of the contract to provide him with a more equitable share of the revenue. The author may not waive this right.

70. Where remuneration is agreed or determined depending on the revenue derived from the use of the work, the user of the copyright work shall be obliged to keep appropriate accounts or other documentation necessary for the determination of the amount of revenue realized.

The user of the work shall be obliged to enable the copyright holder to inspect the documentation referred to in the first paragraph of this Article and shall deliver to him the necessary reports on the revenue realized in the usual time period, unless another time period has been agreed.

71. The author may revoke the economic right, if the holder of the exclusive right exercises the right to an insufficient extent or does not exercise it at all, thereby significantly affecting the author's interests.

The author may not exercise the revocation of the economic right referred to in the first paragraph of this Article if the reasons for so doing mentioned above are attributable to him.

Revocation under the first paragraph of this Article may not be exercised before the expiration of two years from the time of the assignment of the economic rights in the work, or before three months in the case of an article in a daily newspaper, or before one year in the case of an article in a periodical.

The author may exercise the revocation under this Article, if he has offered the holder an extra period of time for the appropriate exercising of the right.

With the exercising of the revocation, the economic rights of the holder shall lapse.



The author shall be obliged to indemnify the right holder adequately, if so required by the principles of justice.

The author may not waive the right of revocation provided by this Law.

Section 2 **Special Provisions for Transfer of Copyright**

Subsection 1 *Publishing Contracts*

72. Under a publishing contract the author shall be obliged to assign to the publisher the right to publish his work by printing it in book form, while the publisher shall be obliged to pay remuneration to the author therefor and to publish the work.

A publishing contract under the first paragraph of this Article does not include the right to publish the work in an electronic form. A separate contract shall be concluded for the publication of the work in an electronic form.

The publisher under the first paragraph of this Article shall have a right of precedence where offers to publish the work in electronic form are equal. The right of precedence shall subsist for three years from the agreed term of publication of the work in book form. The publisher shall give written notice within 30 days of the receipt of the author's offer.

The right to publish a pocket edition, a periodical edition in installments, a translation and the like may also be assigned by a publishing contract.

73. The publishing contract shall include, in particular, the type of rights to be assigned, their scope and duration, the territory of the rights' effectiveness, the term for the publication of the work and the author's remuneration.

Where remuneration is agreed as a percentage of the retail price of the copies of the work sold, the publishing contract shall specify the minimum number of the first printing. Such an obligation shall not be compulsory if the contract specifies the minimum remuneration that the publisher is obliged to pay, regardless of the number of copies sold.

Where the remuneration agreed is a lump sum, the publishing contract shall specify the total edition. If it is not determined or cannot be specified from the purpose of the contract, or from other circumstances or customs, the publisher may publish a maximum of 500 copies of the work.

74. During the period of validity of the publishing contract, the author may not assign the right of publication of the work in the same language to other persons, unless otherwise provided by contract.

The author may assign the right of publication of newspaper articles in the same language simultaneously to several users, unless otherwise provided by contract.



75. Unless otherwise provided by a publishing contract, the publisher shall be obliged to enable the author to improve or alter the work in subsequent editions, provided this does not cause significant expense for the publisher and substantially alter the work.

76. Where a work is destroyed due to force majeure after delivery to the publisher, the author shall have the right to the remuneration that would have been given to him if the work had been published.

Where an entire prepared edition is destroyed due to force majeure before it has been put into circulation, the publisher shall have the right to prepare a new edition, and the author shall have the right of remuneration for the destroyed edition only.

Where a part of a prepared edition is destroyed due to force majeure before it has been put into circulation, the publisher shall have the right to print, without payment of remuneration, only as many copies as were destroyed.

77. The publishing contract shall terminate

- if the author dies before the completion of the copyright work;
- if all copies of all agreed editions are sold out;
- if the term of the contract has expired;
- in other cases provided by law or by contract.

An author may rescind a publishing contract if the publisher, after the initial edition has sold out, does not publish new agreed editions within three years from the date when the author requested it, unless otherwise provided by contract.

An edition shall be considered sold out within the meaning of this Law if the number of unsold copies is less than 5% of all agreed editions, and in any case if the number is less than 100 copies.

Where the publisher fails to publish the work within the agreed time period, the author may rescind the contract and request to be indemnified, and also to keep the remuneration received or to require payment of the agreed remuneration.

Where a period of time for publication of the work has not been specified in the contract, the publisher shall be obliged to publish the work within the customary period, but not later than one year from the date of delivery of the manuscript.

78. Where a publisher intends to sell unsold copies of the work for pulping after a period of three years from the agreed publication of the work, and the contract does not provide for a longer period of time, he shall be obliged first to offer the copies to the author for purchase at the price that he would obtain if they were sold for pulping.



Subsection 2
Public Performance Contract

79. Under a public performance contract the author shall be obliged to assign to the user the right of public performance of his work, while the user shall be obliged to pay the author remuneration and to perform the work in public.

80. A public performance contract shall include, in particular, the type, scope and duration of the rights to be assigned, the territory of the rights' effectiveness, the manner and time period for the public performance of the work and the author's remuneration.

81. The user shall be obliged to enable the author to inspect the public performance of the work, and to provide adequate technical conditions for the performance, unless otherwise provided by contract.

82. Where the user does not perform the work in public within the agreed period of time, the author has the right to rescind the contract and to request to be indemnified as well as to keep any remuneration already received or to demand payment of the agreed remuneration.

Subsection 3
Commissioning Copyright Work Contract

83. Under a contract commissioning a copyright work, the author shall be obliged to create the commissioned copyright work and to deliver it to the person commissioning it, while the latter shall be obliged to pay a remuneration for it.

The person commissioning the work may supervise the process and give instructions, unless by doing so he infringes the author's right of creative freedom.

The author shall keep the copyright of a commissioned work, except the right of distribution, unless otherwise provided by law or by contract.

84. A collective copyright work (encyclopædia, anthology, database and the like) within the meaning of this Law, is a copyright work created on the initiative and under the organization of the legal entity or natural person commissioning it, in collaboration with a large number of authors; it is disclosed and used under the name of the person commissioning it. A special contract shall be concluded for the creation of a collective copyright work.

It shall be considered that the economic and other rights of the authors of a collective work have been assigned exclusively and without limitation to the person commissioning the work, unless otherwise provided by contract.

Subsection 4
Copyright Work in the Course of Employment

85. Where a copyright work is created by an employee in the execution of his duties or on instructions by the employer (hereinafter “copyright work in the course of employment”), it shall be considered that the economic and other rights of the author of that work have been exclusively assigned to the employer for a period of 10 years from the completion of the work, unless otherwise provided in a collective contract or employment contract.

On expiry of the period of time under the first paragraph of this Article the economic rights and other rights shall revert to the employee, while the employer may demand their new exclusive assignment, insofar as he pays the employee an equitable remuneration.

86. As an exception to Article 85 of this Law

— an employee shall retain the exclusive right to use a copyright work in the course of employment as part of his collected works;

— the economic and other rights of an author of a collective work or database, shall be considered to have been assigned exclusively and without limitation to the employer, unless otherwise provided by contract.

CHAPTER IV
SPECIAL PROVISIONS FOR COPYRIGHT WORKS

Section 1
Audiovisual Work

87. An “audiovisual work”, within the meaning of this Law, is a cinematographic, television or video film, any other audiovisual work as well as any other work expressed in the form of consecutive motion pictures, with or without sound, regardless of the nature of the medium which comprises them.

88. Within the meaning of this Law, the writer of the screenplay, the principal director and the director of photography, and, in animated films, the principal animator, shall be considered as the authors of an audiovisual work. Where music is an essential element of the work, the composer of the music is also considered as an author.

89. The animator and the composer of the music of an audiovisual work, when not considered as authors of such audiovisual work according to Article 88 of this Law, as well as the set designer, the costume designer, the editors and the make-up designer shall have copyright only in their individual contributions (hereinafter “authors of contributions”).

90. A film producer, within the meaning of this Law, is the legal entity which or the natural person who, in his own name, at his own expense or at the expense of another, manages or organizes the production of an audiovisual work and is responsible for its completion.

91. The right of audiovisual adaptation is an exclusive right to transform the original work into an audiovisual work or to include it in an audiovisual work.

In concluding an audiovisual adaptation contract, the author of an original work shall be considered to have assigned to the film producer, exclusively and without limitation, the right of modification and inclusion of the original work in an audiovisual work, his economic rights and other rights in that audiovisual work, the right of translation, of audiovisual adaptation as well as rights in the photographs taken in connection with the audiovisual work, unless otherwise provided by contract.

As an exception to the second paragraph of this Article, the author of the original work shall retain

- the exclusive right of further transformation of the audiovisual work into another artistic form;
- the exclusive right to make new audiovisual adaptations of the original work after the expiry of 10 years from the conclusion of the contract referred to in the second paragraph of this Article;
- the right to appropriate remuneration from the film producer for every rental of videograms of the audiovisual work.

The author of the original work may not waive the rights mentioned in the third paragraph of this Article.

92. The relation between the film producer, the authors of an audiovisual work and the authors of contributions, as well as the relations between the authors themselves, shall be regulated by a film production contract, according to this Law.

In concluding a film production contract, the authors shall be considered to have assigned to the film producer, exclusively and without limitation, all their economic rights and other rights in the audiovisual work, rights of translation, of audiovisual adaptation and in photographs made in connection with the work, unless otherwise provided by contract.

In concluding a film production contract, the authors of contributions shall be considered to have assigned to the film producer, exclusively and without limitation, the right to use their contributions for the completion of the audiovisual work.

As an exception to the first, second and third paragraphs of this Article

- the authors shall retain the exclusive right to transform further an audiovisual work into another artistic form;
- the authors of contributions shall retain the right to use their contributions to the audiovisual work separately, unless by doing so they infringe the rights of the film producer;
- the authors shall retain the right to equitable remuneration from the film producer for every rental of videograms of the audiovisual work.



The authors and authors of contributions may not waive the rights specified in the fourth paragraph of this Article.

93. The authors of an audiovisual work shall have the right to author's remuneration separately for each economic right or other rights of the author assigned.

The film producer shall be obliged, at least once a year, to deliver to the authors of an audiovisual work a statement of revenue received separately for each form of authorized use of the work.

94. The audiovisual work shall be considered completed, when, according to the contract between the principal director and the film producer, the first standard copy of the work that is the subject matter of the contract is completed.

The destruction of the master copy referred to in the first paragraph of this Article, shall not be permitted.

Alterations to the copy of the audiovisual work referred to in the first paragraph of this Article, shall only be allowable with the approval of the principal director and of the film producer.

Where one of the authors or authors of contributions does not complete his part of the audiovisual work or is unable to do so due to force majeure, he may not object to his part being used for the work's completion. The author shall enjoy appropriate copyright in that part.

95. Where a film producer fails to complete an audiovisual work within five years from the concluding of the film production contract, or where he fails to distribute the completed audiovisual work within one year of its completion, the authors may rescind the contract, unless another term has been agreed.

In the case referred to in the first paragraph of this Article, the authors and authors of contributions shall retain the right of remuneration.

96. The audiovisual adaptation contract and film production contract shall not be subject to the provisions on the right of withdrawal under Article 17 or to the provisions on assignment of rights under Articles 65 to 68 of this Law.

Section 2 Computer Program

97. A computer program within the meaning of this Law is a program in any expressed electronic form, including the preparatory material for its creation, provided that it is an individual and intellectual creation of its author.

The ideas and conceptions which constitute the basis of any element of a computer program, including the program components that enable connection and interaction between the elements of the program and the machine equipment (interfaces), are not protected under this Law.

98. Where a computer program is created by an employee in the execution of his duties or on his employer's instructions, or where it is created by an author under a commissioning copyright contract, the economic rights and other author's rights to the program shall be considered assigned to the employer or the person commissioning the work, exclusively and without limitation, unless otherwise provided by contract.

99. If it has not been otherwise provided under Articles 100 and 101 of this Law, the author of a computer program shall have the exclusive economic right to use the program and the right to authorize or prohibit the use of the program, in particular, by

— reproduction, partial or full, regardless of whether it is temporary or permanent and regardless of the means and form necessary for the loading, display, running, transmission or storage of the computer program;

— translating or any other modification as well as reproduction of the results of that modification without affecting the author's right of modification;

— distributing the original or copies of the computer program in any form, including the right of rental.

The author may also assign the rights under the first paragraph of this Article, to third parties by contract.

100. Unless otherwise provided by contract, a legal user of the computer program may carry out the operations specified in the first and second items of Article 99 of this Law without the authorization of the author, including the correction of errors necessary for running the computer program according to its intended purpose.

The legal user of a computer program may, without authorization from the author, make a maximum of two copies of the program, if that is necessary for its use.

The legal user of a copy of a computer program may, without authorization from the author, study or test the operation of the program in order to specify the ideas which are a basic characteristic of any element of the program, if he does so while performing any one of the activities—loading, displaying, running, transmitting or storing the program—that he is entitled to perform.

The provisions concerning the right of withdrawal and private and other individual reproduction under Article 34 of this Law, shall not apply to computer programs.

Contractual provisions contrary to the second, third and fourth paragraphs of this Article shall be null and void.

101. Reproduction of the code and alteration of its form, within the meaning of the first and second items of the first paragraph of Article 99 of this Law, shall not require authorization from the author, insofar as they are indispensable in order to obtain the information necessary to achieve interoperability between an independently created program and other programs, provided the following conditions are met:



- such activities to be carried out by the licensee or another legal user, or on their behalf, for that purpose, by a person authorized to do so;
- the information necessary to achieve interoperability has not previously been available to the persons referred to in the first item of the first paragraph of this Article;
- such activities to be confined only to those parts of the original program that are necessary to achieve interoperability.

Information obtained through the application of the first paragraph of this Article may not be

- used for purposes other than the achievement of the interoperability of the independently created computer program;
- conveyed to a third party, except when necessary for the interoperability of the independently created computer program;
- used for the development, production or trade of another computer program substantially similar in its expression, or for any other activity that infringes copyright.

The provisions of this Article may not be applied in a manner that might unreasonably infringe copyright or conflict with the customary use of the computer program.

Contractual provisions contrary to this Article shall be null and void.

102. The distribution of a copy of a computer program or the possession of a copy of a computer program for commercial purposes shall be permissible only in the case of an authorized copy.

103. The provisions of Articles 97 to 102 of this Law shall be applied regardless of other legal regulations on computer programs (such as regulations on industrial property rights, protection against unfair competition, business secrets and the like).

CHAPTER V RELATED RIGHTS

Section 1 General Provisions

104. Related rights, within the meaning of this Law, shall be the rights of the artists-performers in their performances and the rights of phonogram, film and stage producers, broadcasters and publishers (hereinafter “producers”) in their phonograms, videograms, stage works, broadcasts or editions (hereinafter “objects of related rights”) provided by this Law.

105. The provisions of this Law on parts of a copyright work, on the contents and definitions of the economic rights, on the relations between copyright and property rights, on limitations of economic rights, on the calculation of the duration of copyright and on the transfer of copyright shall apply *mutatis mutandis* to related rights.

106. The implementation and protection of related rights according to this Law shall not affect the implementation and protection of copyright.

Section 2 **Contents of Related Rights**

Subsection 1 *Rights of Performers*

107. Artists-performers (hereinafter “performers”), within the meaning of this Law, shall be actors, puppet actors, singers, musicians, dancers and other persons who by acting, singing, dancing, declaiming, reciting or in some other way perform an author’s works or works of folklore.

Within the meaning of this Law, directors of theatrical performances, orchestra conductors, choir directors, sound editors and variety and circus artists shall be considered performers.

108. Performers in ensembles or groups, such as members of an orchestra, a choir, a dancing or theatrical ensemble or other type of group, shall be obliged to authorize one of their members to be their representative for issuing the permission necessary for a performance.

Authorization under the first paragraph of this Article, shall be given in written form and shall be effective if it is granted by the majority of the performers in the ensemble or group referred to in the first paragraph of this Article.

The provisions of the first and second paragraphs of this Article, shall not apply to directors of theatrical performances, conductors and soloists.

109. Performers shall have an exclusive moral right to have their name, pseudonym or other designation indicated in the customary manner on the announcement of the performance and on every fixation and packaging of a fixation of that performance as follows:

- for a solo performance, the name of the performer;
- for a performance by an ensemble or group, the name of the ensemble or group, of the artistic director and the soloists.

110. Performers shall have an exclusive moral right to object to any distortion, mutilation or alteration of their performance or to any use of their performance that could be prejudicial to their personality, honor or reputation.

111. Performers shall have an exclusive economic right to use or to authorize or prohibit appropriate use of their performance in particular for

- broadcasting of the performance, except where the performance is a broadcast by itself, or is broadcast as a fixation;

- public transmission of the live performance through a loudspeaker, screen or similar device, from the space or place of performance;
- fixation of the live performance;
- reproduction of the fixation of the performance on phonograms and videograms;
- reproduction of a performance fixed on phonograms and videograms in any manner or form;
- distribution of phonograms or videograms containing the performance;
- rental of phonograms or videograms containing the performance.

Where the performance is realized by a stage producer, the rights of the performers shall be obtained by the stage producer according to this Law, unless otherwise provided by contract.

112. The performer shall have the right to a share in the remuneration received by the phonogram producer for the disclosure of a phonogram containing his performance.

113. In concluding a phonogram or videogram production contract, it shall be considered that the performer has assigned to the phonogram or film producer the right of fixation, reproduction, distribution and rental of his performance, unless otherwise provided by contract.

Regardless of the contract referred to in the first paragraph of this Article, the performer shall have the right to appropriate remuneration from the phonogram or film producer for every rental.

The performer may not waive the right specified in the second paragraph of this Article.

114. Where one of the performers does not complete his contribution to the audiovisual work or is unable to do so due to force majeure, he may not object to the use of the part of his contribution for the completion of the work. The performer shall enjoy the appropriate rights to such part specified in this Law.

115. Where a performance is realized by an employee in the execution of his duties or on instructions from an employer (performance in the course of employment), relations in respect of the performance shall be regulated by the appropriate collective agreement or an employment contract.

116. The rights of the performer shall subsist for 50 years from the date of the performance. If the performance fixation is legally disclosed during that period, the rights of the performer shall subsist for 50 years from its first disclosure.



Subsection 2
Rights of Phonogram Producers

117. A phonogram producer, within the meaning of this Law, is a natural person who or a legal entity which takes the initiative and assumes responsibility for the first fixation of the sounds of a performance or other sounds.

118. The phonogram producer shall have the exclusive economic right to use or to authorize or prohibit the use of his phonograms for reproduction, modification, distribution and rental.

119. Where a phonogram published for commercial purposes or its reproduction is used directly for broadcasting or any other type of disclosure, the user shall be obliged to pay the phonogram producer an appropriate single remuneration for each use.

The phonogram producer shall be obliged to pay half the remuneration referred to in the first paragraph of this Article to the performer of the phonogram, unless otherwise provided by contract.

120. The rights of a phonogram producer shall subsist for 50 years from the date of fixation. If the phonogram has been legally disclosed during this period, the rights of the producer shall subsist for 50 years from its first disclosure.

Subsection 3
Rights of Film Producers

121. A film producer under Article 90 of this Law, shall have the exclusive economic right to use or to authorize or prohibit publication of videograms of his audiovisual work.

122. A film producer shall have an exclusive right of reproduction, distribution, rental and public presentation of his videograms.

123. The rights of the film producer shall subsist for 50 years from the date of completion of the fixation. If the videogram has been legally disclosed during that period, the rights of the film producer shall subsist for 50 years from the first disclosure.

Subsection 4
Rights of Stage Producers

124. A stage producer, within the meaning of this Law, is a natural person who or a legal entity which in his own name organizes the preparation and performance of a stage work.

125. The stage producer, unless otherwise provided by contract, shall have the exclusive economic right to use or to authorize or prohibit the use of the stage work for

— broadcasting of the stage work;

- public transmission of the stage work through a loudspeaker, screen or similar device from the space or place of performance;
- fixation of a live performance of the stage work;
- modification of a phonogram or videogram fixation;
- reproduction of the fixation of the stage work on a phonogram or videogram;
- distribution of phonograms and videograms of the stage work;
- rental of phonograms and videograms containing the stage work.

126. The stage producer shall have the right to a share in the remuneration received by the phonogram producer for the disclosure of the phonogram containing the stage work.

127. In concluding a phonogram or videogram production contract, it shall be considered that the stage producer has assigned to the phonogram producer or the film producer the right of fixation, reproduction, distribution and rental of his work, unless otherwise provided by contract.

Regardless of the contract referred to in the first paragraph of this Article, the stage producer shall have the right to an appropriate remuneration from the phonogram producer or the film producer for every rental.

The stage producer may not waive the right specified in the second paragraph of this Article.

128. The rights of the stage producer shall subsist for 20 years from the date of the first public performance of the stage work.

Subsection 5 *Rights of Broadcasting Organizations*

129. A broadcasting organization shall have the exclusive economic right to use or to authorize or prohibit the use of its broadcasts for

- rebroadcasting, including deferred broadcasting and broadcasting via satellite;
- disclosure at public places against payment of an admission charge;
- cable distribution (simultaneous or deferred);
- public transmission on individual demand to individual subscribers and public access to fixations of broadcasts entered into computer databases via online network;
- fixation;
- reproduction of the fixations;
- distribution of the fixations;



- photography, reproduction and distribution of the photographs of the fixations;
- distribution of program signals transmitted via communication satellites by other broadcasters, cable and other distributors;
- import and distribution of broadcast fixations or their reproduction in a State where protection of the rights of broadcasting organizations is not provided.

130. The rights of broadcasting organizations shall subsist for 50 years from the date of the first broadcast.

*Subsection 6
Rights of Publishers*

131. A natural person who or legal entity which legally publishes a copyright work in book form (hereinafter “publisher”) shall have exclusive rights in his edition according to this Law.

The publisher shall have an exclusive right to authorize or prohibit his editions from being reproduced by another natural person or legal entity, under the name of the person, by photography, copying or other form of duplication. Where the publisher gives an authorization for reproduction, the name or the pseudonym or designation of the publisher of the publication used shall be indicated on the reproduced edition. This right shall not affect the implementation of the author’s rights.

132. A publisher who for the first time legally publishes a previously unpublished work in which the copyright has expired, shall enjoy protection equal to the economic rights and other author’s rights specified in this Law.

133. A publisher who publishes a previously published critical or scientific work in which the copyright has expired, shall enjoy protection equal to the economic rights and other rights provided by this Law.

134. The rights under the second paragraph of Article 131, Articles 132 and 133 of this Law shall subsist for 25 years from the legal publication of the work.

CHAPTER VI
ADMINISTRATION OF RIGHTS

**Section 1
General Provisions**

135. The author may administer his moral, economic and other rights either personally or through an agent.

The provisions of this Chapter which refer to the administration of copyright, that is to the author, apply *mutatis mutandis* to the related rights, that is to the holder of the related right.

136. Copyright shall be administered separately for each copyright work (hereinafter “individual administration”) or, if so provided by this Law, jointly for a number of copyright works by several authors (hereinafter “collective administration”).

137. The administration of copyright through an agent shall include representation of the author in

- legal matters and relations with the right holders, that is the users of his work, including the collection of the author’s remuneration;
- legal proceedings before the courts or other bodies, to protect his copyright.

Section 2 **Collective Administration**

138. The collective administration of a copyright shall be carried out only for a copyright work already disclosed.

The collective administration of copyright shall consist of

- the assignment of non-exclusive rights for the use of the copyright work;
- the collection and distribution of authors’ remuneration for the use of the copyright work;
- the exercise of the protection of the right before the courts and other bodies.

139. The following rights shall be collectively administered:

- the disclosure of non-stage musical and non-stage literary works (small rights);
- the resale royalty rights;
- the rebroadcasting by cable of a copyright work, except the broadcasters’ own transmission, regardless of whether the rights concerned are their own or have been assigned to them by other right holders.

140. The following rights may also be collectively administered:

- the reproduction of musical and literary works on phonograms and videograms (mechanical rights);
- the rental of phonograms and videograms;
- the disclosure or reproduction of parts of copyright works, and works of photography, fine and applied art, architecture, design and cartography, for teaching purposes;
- the disclosure of articles on current topics in the daily and periodical press about general questions, unless explicitly prohibited by the author;
- the reproduction, public presentation or other disclosure of works in commercials that last for no more than 60 seconds;

— the reproduction of copyright works exhibited in public places for commercial purposes.

Other forms of use of the copyright works may also be collectively administered if it is in the authors' interest.

141. Collective administration shall be carried out by associations of authors established for that purpose (hereinafter "collecting society").

The collecting society referred to in the first paragraph of this Article, shall be a non-profit association and may carry out collective administration only.

The collecting society shall be managed by its members according to the statutes of the society.

142. The statutes of a collecting society shall contain, in particular, the following provisions:

- the name of the society, which may not be identical to the name of another society;
- types of rights to be administered;
- conditions for acquisition and loss of membership;
- categories of right holders (authors of original work by types and genres, authors of modifications, authors of translation and the like, legal heirs, publishers, employers) and categories of membership (regular, irregular, temporary, honorary and the like) on which the management of the collecting society depends;
- membership fees, according to the categories of rights and the type of membership;
- rights, duties and responsibilities of the members;
- bodies of the society, their competence, election and dismissal;
- procedural matters;
- fundamental principles of remuneration distribution among authors or right holders;
- supervision of the financial and economic administration;
- the manner of disposal of the assets of the society in the event of its cessation.

143. The collecting society shall be registered with the competent body, and shall commence work upon a license issued by the Ministry of Culture.

The Ministry of Culture shall issue the license referred to in the first paragraph of this Article, if the collecting society fulfills the following conditions:

- it has its headquarters in the Republic of Macedonia;
- it is open to all authors;



- the statutes are in accordance with this Law;
- it provides efficacious and economical administration of rights throughout the territory of the Republic.

In establishing conditions for the efficacious administration of rights under the fourth item of the second paragraph of this Article, the Ministry of Culture shall consider, in particular, the number of authors who have entered into a membership contract with the collecting society, the scope of the use of authors' works or the number of possible users, the manner and means by which the collecting society intends to achieve its aims, the manner and participation of the members in the bodies and decision making, the principles for distribution of remuneration among the authors, as well as the possibilities of administration of rights abroad.

144. The Ministry of Culture shall issue a license to the collecting society on the basis of a public competition published in the *Official Gazette of the Republic of Macedonia*.

For the purpose of the collective administration of rights under Articles 139 and 140 of this Law for the same type of copyright works, a license shall be issued generally, to one collecting society only.

The Ministry of Culture shall issue a license in the form of a decision against which appeal is allowed. The Government of the Republic of Macedonia shall decide on the appeal.

The final decision referred to in the third paragraph of this Article, shall be published in the *Official Gazette of the Republic of Macedonia*.

145. The Ministry of Culture shall revoke the license issued, if the collecting society fails to exercise the obligations specified in its statutes and in this Law. In such a case, the Ministry of Culture shall first give the collecting society a written warning and shall set a time limit of at least 30 days for the collecting society to eliminate the irregularities.

The Ministry of Culture shall revoke the license in the form of a decision, against which an appeal to the Government of the Republic of Macedonia is permitted. The revocation shall become valid 30 days after the date of publishing the final decision in the *Official Gazette of the Republic of Macedonia*.

146. The collecting society shall adopt general regulations and tariffs for the use of copyright works.

Other special tariffs may be specified by agreement between the collecting society and the users.

The collecting society shall submit its tariffs to the Ministry of Culture for approval. Approved tariffs shall be published in the *Official Gazette of the Republic of Macedonia*.

147. The collecting society shall adopt regulations for the distribution of the author's remuneration, in accordance with its statutes and this Law.



The principle of promotion and support of creation shall be implemented by distribution.

Not more than 30% of the author's collected remuneration may be used to cover the costs of the collecting society.

The collecting society shall submit the regulations under the first paragraph of this Article, to the Ministry of Culture for approval. The approved regulations shall be published in the *Official Gazette of the Republic of Macedonia*.

148. The collecting society shall administer copyright on the basis of a contract with the author.

The contract referred to in the first paragraph of this Article, shall include, in particular, authorization for the administration of rights, the type of work, the right that is to be administered, the duration of the contract and the special rights where there is defaulting on the contract.

For as long as the administration of the copyright has been assigned to a collecting society, either by law or by contract, the author may not administer those rights individually.

The authorized collecting society shall administer by force of law the rights under Article 139 of this Law regardless of whether a contract has been concluded with the author or not.

149. The collecting society shall conduct proceedings for administering copyright before the courts and other bodies in its own name but at the author's expense and shall be obliged to inform the author.

150. If the author requests the collecting society to administer a copyright, the collecting society may not refuse to do so according to this Law and the statutes of the collecting society.

151. The collecting society shall be obliged at any time, on request of the author, to provide him with information about the administration of his right.

The collecting society shall be obliged, at the request of a user, to enter into a contract for the assignment of the non-exclusive rights that it is authorized to administer, according to its regulations.

If the parties referred to in the second paragraph of this Article, fail to reach agreement on the amount of the remuneration, the appropriate right shall be considered assigned insofar as the person requesting it has paid into the collecting society's account, or to the court, an amount calculated by the collecting society according to its tariff.

152. The organizer of cultural, artistic and entertainment performances as well as other users of copyright works shall be obliged first of all to acquire from the relevant collecting society, an authorization for the public performance or disclosure of the copyright works, in cases specified in this Law, and to submit to the collecting society a list of all works



performed or disclosed and also to pay an amount according to the tariffs of the collecting society, within a period of 15 days following the performance or disclosure.

At the request of the author or the collecting society, the internal affairs body shall prohibit the performance or disclosure of the copyright work if the organizer has not received an authorization according to the first paragraph of this Article.

Once a month, the broadcasters shall be obliged to submit to the competent collecting society a list of the broadcast copyright works.

The owner of original works of fine art or manuscripts of literary or musical works, or the organizer or agent for the sale of such works shall be obliged to submit information regarding the works sold, the vendor and the retail price to the competent collecting society within 30 days of the sale.

153. When the exercising of a certain activity is connected with the acquisition of rights under Article 139 of this Law, the competent body shall not issue a license for exercising such activity if the person performing it has not previously concluded a contract with the competent collecting society.

154. Any member of the collecting society may require, within the time limit determined by the statutes, an inspection of the annual financial report and the report of the supervisory board of the collecting society.

The majority of the members of a collecting society may require that one or more independent experts inspect the operation of the society.

155. The exercise of the collective administration of copyright and related rights shall be supervised according to this and other Laws.

The collecting society shall be obliged to notify the Ministry of Culture of agreements entered into with associations of users and with foreign associations concerned with identical activities, as well as of a change in the statutes.

If the Ministry of Culture does not reply within two months from the submission of the acts provided for by this Law, and for which the Ministry's approval is necessary, it shall be considered that approval has been given.

CHAPTER VII PROTECTION OF RIGHTS

Section 1 General Provisions

156. A person whose rights under this Law have been infringed may require protection of his rights and claim indemnity, unless otherwise provided by this Law.

The right holder may also require the protection of the first paragraph of this Article, when there is a serious threat of infringement of the rights according to this Law.

157. When there are several holders of a right as per this Law, each of them may demand protection of the right in its entirety.

When there are several infringers of a right as per this Law, each of them shall be liable for the infringement, in its entirety.

158. A person shall be considered to be infringing the exclusive rights according to this Law, when he manufactures, imports, possesses for commercial purposes, distributes, rents or in any other way uses any devices

— whose sole or main purpose is the unauthorized removal or damage of technical equipment or a computer program that is used as legal protection against unauthorized use;

— that makes possible or assists, without authorization, the public to receive broadcasters' encoded program-carrying signals.

Section 2 **Judicial Protection**

159. When the rights under this Law have been infringed, the right holder may require

— to have the infringer prohibited from the preparation of an infringement, the infringement itself and future infringements;

— to have the infringer end the situation caused by the infringement;

— to have unlawful copies and their packaging or the performance or other objects of protection according to this Law destroyed or altered;

— to have the master copies, negatives, plates, moulds or other devices that have been instrumental in the infringement destroyed or altered;

— to have the equipment whose sole or main purpose has been the infringement of rights according to this Law, and which is owned by the infringer, destroyed or altered;

— to have the judgement published in the public media at the expense of the infringer, to such extent and in such manner as the court may determine.

The provisions of the second and third items of the first paragraph of this Article shall not apply to architectural structures, unless the destruction or alteration of the structure is justified by the circumstances of the case.

Instead of the above requirements, the right holder may require that the infringer or owner convey to him the copies or the devices referred to in the third and fourth items of the first paragraph of this Article.

160. If an economic or other right or a related right in accordance with this Law has been infringed either intentionally or through gross negligence, the right holder may require payment in civil proceedings of an agreed or the customary remuneration for such use,

increased by 200%, regardless of whether he has suffered actual pecuniary damage as a result of the infringement (civil penalty).

When deciding on the claim for payment of punitive damages under the first paragraph of this Article and determining the amount thereof, the court shall take into account all the circumstances of the case and, in particular, the degree of culpability of the infringer, the amount of agreed or customary remuneration, as well as the preventive purpose of the penalty.

If the pecuniary damage exceeds the amount of the penalty, the right holder shall be entitled to claim the difference up to the full amount of the full indemnity.

161. In a case of infringement of a moral right and in the absence of pecuniary damage, the court may award an author or performer equitable monetary indemnity for the prejudice to his personality, honor and reputation, or non-pecuniary damages, if it finds that the circumstances of the case, and especially the degree of damage and its duration, justify this.

162. If the right holder reports that his exclusive right under this Law has been infringed, the court may, on the holder's proposal, determine provisional measures to secure claims according to this Law and, in particular,

- to seize, remove from circulation and store copies, devices, equipment and relevant documents;
- to prohibit activities of eventual infringement or their continuance;
- to adopt other similar measures.

If there is a well founded suspicion that protection as per the first paragraph of this Article, may not be assured later, the court may pronounce and execute such measures without prior notification and without hearing the adverse party.

The procedure for provisional measures shall be summary.

The regulations for executive procedure shall be applied in the procedure for adoption of provisional measures, unless otherwise provided by this Law.

163. If the right holder reports that his exclusive right under this Law has been infringed and that there is a well founded suspicion of destruction of evidence of the infringement or that it may be impossible to secure such evidence later, the court may, on the holder's proposal, secure such evidence without prior notice and without hearing the adverse party.

The securing of evidence under the first paragraph of this Article, may include search or inspection of premises, documentation, inventories, databases, computer programs and other sources, the examination and seizure of documents, the hearing of witnesses, findings and statements by experts.

The decision as to which proposal for securing evidence has been accepted, together with the proposal, shall be delivered to the adverse party at the time of the actual securing of

the evidence or, if that is not possible, when it becomes possible. A plea against a decision shall not suspend the decision.

The procedure for securing evidence shall be summary.

The regulations for civil trial procedure shall be applied in the procedure for securing evidence, unless otherwise provided by this Law.

Section 3 **Measures for the Enforcement of Protection**

164. The right holder may require from persons who are in any way connected with an infringement of rights recognized by this Law (manufacturer, printer, importer, consignor or owner, or holder of copies, objects of related rights or means with which the right was infringed) to deliver information and documents in connection with the infringement immediately.

The obligation under the first paragraph of this Article, shall not apply in cases where conditions exist that allow the withdrawal of statement or answer to particular questions in the civil trial procedure.

If the persons referred to in the first paragraph of this Article, fail to deliver information or documents in their possession, they shall be liable for any recompense for damage caused by failure of delivery.

165. If the right holder reports that his exclusive right according to this Law has been infringed by the importation of certain goods into the State, the customs authorities may, on his request, determine the following customs measures:

- the right holder or his agent to inspect the goods;
- the goods to be seized, removed from circulation, or stored in a secure place.

Together with the requirement of the first paragraph of this Article, the right holder shall be obliged to deliver to the customs authorities a detailed description of the goods, necessary evidence of his exclusive rights and their presumed infringement. On the order of the customs authorities, the right holder shall be obliged to provide security against damage that may be caused by such measures.

The customs authorities shall be obliged to notify the importer and the recipient of the goods promptly of the measures adopted. The customs authorities shall rescind the measures adopted if the right holder does not file a suit or initiate some other proceedings for executing the measures adopted within 10 days.

166. In order to secure evidence or for other reasons, the author or the right holder according to this Law, may register or deposit originals or a copy of his work, phonogram, videogram or the object of another of his rights with an agent or an appropriate association.

167. A holder of an exclusive copyright under this Law may include on the original or copies of his work the symbol © before his name, pseudonym or designation and the year of the first disclosure.

A holder of an exclusive right in a phonogram according to this Law may include on the original or copies of his published phonogram or their containers the symbol [...]² before his name, pseudonym or designation and the year of the first disclosure.

Unless the contrary has been proved, the exclusive rights in works or phonograms shall belong to the person indicated according to the first and second paragraphs of this Article.

The provisions of this article shall not affect the establishing and protection of rights according to this Law.

Section 4 **Penal Provisions**

168. A fine of between 34,000 and 300,000 denars for a misdemeanor shall be imposed on any legal entity which

— without assignment of an appropriate economic right by the author, in cases where such assignment is required according to this Law, reproduces, distributes, publishes, rents, publicly performs, transmits to the public, presents to the public, publicly exhibits, broadcasts, rebroadcasts, modifies or audiovisually adapts a work or copies of a work or in any other way uses a copyright work without authorization (Article 19);

— without mentioning the source and origin, by distortion or in any other way, improperly uses a work of folk literature and folk art (Article 42, second paragraph);

— without mentioning the name, pseudonym or other designation of the author, by disturbing the integrity of the work or distorting it or by any other use of the work in a way that may be prejudicial to the personality, honor and reputation of the author, uses a work of which the protection afforded by copyright has expired (Article 52 referring to Article 16, fourth and fifth items);

— does not keep appropriate accounts or other documentation of the amount of profit gained in a case where remuneration has been agreed or determined depending on the profit gained, or does not enable the inspection of the documentation, or does not submit reports of the profits gained to the holder of copyright (Article 70);

— distributes a copy of a computer program or possesses, for commercial purposes, a copy of a computer program which is or can be presumed to be an unauthorized copy (Article 102);

— without assignment of an appropriate exclusive right from the holder of the related right (performer or producer), where such assignment is required by this Law, publicly performs, reproduces, distributes or rents fixations of a performance, stage work, phonograms, videograms or editions (Articles 108, 111, 118, 122, 125, 131, 132 and 133);



— without assignment of the appropriate exclusive rights by a broadcasting organization, where such assignment is required by this Law, records, reproduces, distributes fixations of a program or in any other way uses fixations (Article 129);

— refuses collective administration of the copyright and related rights where this is requested by the holder of the copyright or of the related right (Article 150);

— fails to give information on the collective administration of copyright and a related right when such information is requested by the holders of rights, or fails to enter into a contract for the assignment of non-exclusive rights (Article 151, first and second paragraphs);

— manufactures, imports, possesses for commercial purposes, distributes, rents or in any other way uses, any kind of means whose sole or main purpose is to unlawfully remove or damage technical equipment or a computer program that is used for legal protection against unauthorized use (Article 158, first item);

— manufactures, imports, possesses for commercial purposes, distributes, rents or in another way uses any kind of means that enable or facilitate the public to receive encoded radio or television program-carrying signals without authorization (Article 158, item 2).

A fine of between 1,700 and 50,000 denars shall be imposed on the institutional legal representative of a legal entity or a self-employed individual for a misdemeanor in respect of the first paragraph of this Article.

A fine of between 1,000 and 50,000 denars shall be imposed on a natural person for a misdemeanor in respect the first paragraph of this Article.

For a misdemeanor in respect of the first paragraph of this Article, a legal entity or a self-employed individual shall be subject to a provisional measure—prohibition from conducting his activities for a period of between three months and one year—and the relevant collecting society shall have its license for the collective administration of copyright and related rights revoked and a provisional measure—seizure of the copies of a copyright work under the first item, the copies of a computer program referred to in the fifth item, the performance or stage work fixations as well as the phonograms and videograms referred to in the sixth item, the program fixations referred to in the seventh item as well as the means referred to in the tenth and eleventh items of this Article.

A provisional measure—the seizure of objects under the fourth paragraph of this Article, shall be imposed on a natural person who commits a misdemeanor referred to in paragraph 1 of this Article.

169. A fine for misdemeanor of between 34,000 and 150,000 denars shall be imposed on a legal entity which

— does not enable the author to inspect the public performance of the work or does not provide adequate technical conditions for the performance (Article 81);

— does not submit a list or information on works used to the competent collecting society within the determined time limit (Article 152, first and third paragraphs);



— does not submit information on the sale of original works of fine art and manuscripts of literary and musical works, and on the vendor of originals and manuscripts to the competent collecting society within the determined time limit (Article 152, fourth paragraph).

A fine of between 1,700 and 34,000 denars shall be imposed on the institutional legal representative of a legal entity or a self-employed individual who commits a misdemeanor under the first paragraph of this Article.

A fine of between 1,000 and 33,000 denars shall be imposed on a natural person who commits a misdemeanor under the first paragraph of this Article.

A legal entity or a self-employed individual who commits a misdemeanor under the first paragraph of this Article, shall be subject to a provisional measure—prohibition on conducting his activities for a period of between three months and one year.

Section 5 Supervision

170. Supervision of the implementation of this Law shall be carried out by the Ministry of Culture, according to this and another Law.

When an authorized person (hereinafter “inspector”) in the course of his supervisory activity has well founded suspicions that a misdemeanor has been committed, he shall temporarily seize the objects that have been or are intended to be used for the commission of the misdemeanor, or have been created by such a misdemeanor, by decision, according to this Law.

The inspector shall submit the temporarily seized objects, together with a writ for the institution of misdemeanor proceedings, to the competent authority in misdemeanor proceedings.

170a. The inspector, under the second paragraph of Article 170 of this Law, shall have a legitimation document.

The inspector shall be obliged to identify himself before exercising the inspection.

The Minister of Culture shall decide on the printed form of the legitimation document and its issuing.

CHAPTER VIII SCOPE OF APPLICATION OF THIS LAW

171. Authors and holders of related rights who are nationals of the Republic of Macedonia or have their headquarters in the Republic of Macedonia shall enjoy protection, according to this Law.



Foreign authors and holders of related rights shall enjoy the same protection as persons referred to in the first paragraph of this Article, insofar as this is provided for by international treaty or by this Law, or where factual reciprocity exists.

Regardless of the other provisions of Chapter VIII of this Law, foreigners shall enjoy protection under this Law with respect to moral rights in all cases and with respect to the resale royalty right only where factual reciprocity exists.

Reciprocity shall be proved by the person who bases his claim thereon.

172. Protection under this Law shall be enjoyed by foreign authors

- who are domiciled in the Republic of Macedonia;
- of works first disclosed in the Republic of Macedonia or disclosed in the Republic of Macedonia within 30 days of having been first disclosed in another country;
- of audiovisual works whose producer has his headquarters or domicile in the Republic of Macedonia;
- of works of architecture or fine art which are or form an integral part of immovable property located on the territory of the Republic of Macedonia.

If the copyright work has been created by several authors, the protection accorded by this Law shall be enjoyed by all of them if at least one of them meets one of the conditions of the first paragraph of this Article.

173. Protection under this Law shall be enjoyed by foreign performers

- who are domiciled in the Republic of Macedonia;
- whose performances take place on the territory of the Republic of Macedonia;
- whose performances have been fixed on phonograms that enjoy protection under this Law;
- whose performances have been incorporated in the programs of broadcasting organizations, but with no intention of their being fixed on phonograms, that enjoy protection under this Law.

If several performers take part in the performance, protection under this Law shall be extended to all of them if at least one of them is a citizen of the Republic of Macedonia or is domiciled in the Republic of Macedonia.

174. Protection under this Law shall be enjoyed by foreign producers of phonograms and film producers whose phonogram or videogram has been first fixed in the Republic of Macedonia.

A foreign publisher, in respect of his related rights, shall enjoy protection under this Law if the edition has been first published in the Republic of Macedonia or published in the Republic of Macedonia within 30 days of having been first published in another country.



175. Protection under this Law shall be enjoyed by a foreign broadcasting organization that transmits its broadcasts via transmitters located on the territory of the Republic of Macedonia.

176. The time periods provided for the protection of rights according to this Law shall apply to foreign holders of related rights who enjoy protection under this Law, and shall expire on the date on which the protection expires in the country of which they are nationals, or where their headquarters are located, but not longer than the time periods provided by this Law.

177. Protection under this Law shall be enjoyed by a foreign author and foreign holder of a related right whose work, performance or object of the related right is disclosed in the Republic of Macedonia via satellite, if the appropriate program-carrying signals are entered into an unbroken communications sequence to a satellite and back to the earth in the Republic of Macedonia, and are under the control of the competent broadcaster.

The protection, according to this Law shall also be enjoyed, regardless of whether the condition in the first paragraph of this Article has been fulfilled or not, if

— the receiving-dispatching station by which program-carrying signals are transmitted is located in the Republic of Macedonia; or

— the broadcaster that has commissioned the broadcast by satellite has its headquarters in the Republic of Macedonia.

178. Authors and holders of related rights who have no citizenship or whose citizenship cannot be determined—stateless persons—shall enjoy the same protection under this Law as the citizens of the Republic of Macedonia if they are domiciled in the Republic.

Persons referred to in the first paragraph of this Article, who are not domiciled in the Republic of Macedonia or whose domicile cannot be determined but who have the necessary residence in the Republic shall enjoy the same protection as citizens of the Republic of Macedonia.

Persons referred to in paragraph 1 of this Article, who are neither domiciled nor have the necessary residence in the Republic of Macedonia shall enjoy the same protection as citizens of the State in which they have a domicile or necessary residence.

The provisions of this Article shall apply equally to foreign authors and foreign holders of related rights having the status of refugees under international agreements or the regulations of the Republic of Macedonia.

CHAPTER IX TRANSITIONAL AND FINAL PROVISIONS

179. The Ministry of Culture shall announce a competition as referred to in Article 144 of this Law for the purpose of issuing a license for the collective administration of copyright and related rights, within one year of the date of entry into force of this Law.



If the Ministry does not issue a license regarding the competition under the first paragraph of this Article it may issue a temporary license for the collective administration of specific rights to a legal entity which does not fulfill the conditions laid down in Article 142 of this Law. The temporary license determines the term and the conditions for temporary collective administration.

180. An association that has been collectively administering rights under Articles 91 and 93 of the Law on Copyright (*Official Gazette of SFRY*, Nos. 19/1978, 34/1978, 24/1986, 75/1989 and 21/1990) prior to the enactment of this Law may continue to do so without the permission of the Ministry of Culture until the Ministry issues a license for the collective administration of such rights to another collecting society that meets the conditions of this Law.

Tariffs or regulations of the society referred to in the first paragraph of this Article, adopted before the entry into force of this Law on the basis of Article 91a of the Law on Copyright (*Official Gazette of SFRY*, Nos. 19/1978, 34/1978, 24/1986, 75/1989 and 21/1990), shall be submitted for approval to the Ministry of Culture within 30 days of the entry into force of this Law.

181. The provisions of this Law concerning remuneration for disclosure of phonograms (Articles 112 and 119) shall apply two years from the date of entry into force of this Law.

182. The provisions of this Law shall not apply to contracts or activities for use concluded or exercised before it enters into force, unless otherwise provided by this Law.

183. The provisions of this Law concerning computer programs and databases shall also apply to computer programs and databases created before the date on which this Law enters into force, unless it affects the contracts and rights concluded or acquired prior to that date.

184. This Law shall apply to all copyright works and performers' performances that, at the time of its entry into force, have enjoyed protection under the Law on Copyright (*Official Gazette of SFRY*, Nos. 19/1978, 34/1978, 24/1986, 75/1989 and 21/1990).

This Law shall also apply to the subject matter of related rights if 20 years have not elapsed from the time of their first legal publication, broadcast or fixation to the date of entry into force of this Law.

184a. The measure provided for in Article 170a of this Law shall be pronounced upon by the Minister of Culture within a time period of three days from the date of entry into force of this Law.

185. On the date of entry into force of this Law, the Law on Copyright (*Official Gazette of SFRY*, Nos. 19/1978, 34/1978, 24/1986, 75/1989 and 21/1990) shall cease to apply.

186. This Law shall enter into force on the eighth day following its publication in the *Official Gazette of the Republic of Macedonia*.



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- * *Macedonian title:* ЗАКОН ЗА АВТОРСКОТО ПРАВО И СРОДНИТЕ ПРАВА.
Entry into force (of amending Law): January 30, 1998.
Source: English text communicated by the national authorities.
Note: Editing by the International Bureau of WIPO
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- ¹ The official country name used in the United Nations system is “the former Yugoslav Republic of Macedonia”.
- ² This sign, not reproduced here, corresponds to a capital P in a circle (*Editor’s note*).