

**ACT ON AMENDMENTS¹ to the
COPYRIGHT AND RELATED RIGHTS ACT²
(ZASP-A)³**

Article 1

In It. 2 of Article 1 of the Copyright and Related Rights Act (Official Gazette of the RS No. 21/95) the word "and" shall be replaced by a comma, and after the word "publishers" the following words shall be added: "*and makers of databases*".

Article 2

In Article 8 new paragraphs (3) and (4) shall be added as follows:

"(3) Databases as mentioned in Paragraph (1) of this Article are collections of independent works, data or other materials in any form, arranged in a systematic or methodical way and individually accessible by electronic or other means.

(4) Protection under this Article shall not apply to computer programs used in the making or operation of electronic databases."

Article 3

In Paragraph (1) of Article 21 before the end of the sentence the wording "*and copies of his work*" shall be added.

Article 4

Article 22 shall be changed as follows:

"Economic rights
Article 22

- (1) Use of the work in material form includes in particular the right of reproduction (Article. 23).
- (2) Use of the work in non-material form (*communication to the public*) includes in particular the following rights:
 1. the right of public performance (Article 26);
 2. the right of public transmission (Article 27);
 3. the right of public communication by phonograms and videograms (Article 28);
 4. the right of public presentation (Article 29);
 5. the right of broadcasting (Article 30);
 6. the right of rebroadcasting (Article 31);
 7. the right of secondary broadcasting (Article 32);
 8. *the right of making available to the public (Article 32. a).*

¹ Official Gazette of the RS No 9/2001. The Act entered into force on 24 February 2001.

² Official Gazette of the RS No 21/1995. The Act entered into force on 29 April 1995.

³ The acronym **ZASP** stands for the Slovenian title of the Act on Copyright and Related Rights, i.e. **Zakon o Avtorski in Sorodnih Pravicah**, the letter - **A** for its first amendment. The amended wording is in *italic*.

- (3) Use of the work in a modified form includes in particular the following rights:
 1. the right of transformation (Article 33);
 2. the right of audiovisual adaptation (Article 104).
- (4) *Use of copies of a work includes the following rights:*
 1. the right of distribution (Article 24);
 2. the rental right (Article 25)."

Article 5

Paragraph (1) of Article 23 shall be changed as follows:

"(1) The reproduction right is the exclusive right to fix the work in a material medium or in another copy directly or indirectly, temporarily or permanently, by any means and in any form, in whole or in part."

Article 6

After Article 32, a new Article 32.a shall be inserted:

*"Right of making available
Article 32.a*

The right of making available is the exclusive right that a work, by wire or wireless means, is made available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them or that a work is transmitted to a member of the public based on an offer, intended for the public."

Article 7

It. 1 in Paragraph (2) of Article 36 shall be changed as follows:

"1. originals or copies of library material in public libraries;"

Article 8

Paragraph (4) of Article 37 shall be changed as follows:

"(4) For the purposes of this Article the term photocopying includes other similar reproduction techniques, to the term appliances for sound or visual fixation other appliances, which enable getting the same effect, are assimilated."

Article 9

After Article 53, a new Article 53.a shall be inserted:

*"Databases
Article 53. a*

(1) A lawful user of a disclosed database or of a copy thereof may freely reproduce or alterate that database, if this is necessary for the purposes of access to its contents and the normal use of that contents. Where the user is authorized only to apart of the database, this provision shall apply only to that part.

- (2) *Any contractual provision contrary to the preceeding paragraph shall be null and void."*

Article 10

Article 62 shall be changed as follows:

*"Collective works
Article 62*

In case of collective works the copyright shall run for 70 years after the lawful disclosure of the work."

Article 11

Article 105 shall be changed as follows:

*"Co-authors of an audiovisual work
Article 105*

- (1) *As co-authors of an audiovisual work shall be considered:*
1. *the author of the adaptation,*
 2. *the author of the screenplay,*
 3. *the author of the dialogue,*
 4. *the director of photography,*
 5. *the principal director,*
 6. *the composer of music specifically created for use in the audiovisual work.*
- (2) *If animation represents an essential element of the audiovisual work, the principal animator shall be considered as co-author of that work."*

Article 12

At the end of It. 5 of Article 121 the dot shall be replaced by a semicolon and a new It. 6. shall be added as follows:

"6. the making available to the public of fixations of its performances."

Article 13

Article 128 shall be changed as follows:

*"Producers of phonograms
Article 128*

- (1) *Producer of a phonogram is a person or legal entity, who or which takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds, or the representations of sounds.*
- (2) *Phonogram is a fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in an audiovisual work.*
- (3) *Fixation is an embodiment of sounds or of representations thereof on a medium, from which they can be perceived, reproduced or communicated through a device."*

Article 14

At the end of It. 4 of Article 129 the dot shall be replaced by a semicolon and a new It. 5. shall be added as follows:

"5. *the making available to the public of its phonograms.*"

Article 15

In Article 130 a new paragraph (3) shall be added as follows:

"(3) *For the purposes of this Article, phonograms made available to the public by wire or wireless means in such a way that members of the public may access them from a place and at a time individually chosen by them, shall be considered as if they had been published for commercial purposes.*"

Article 16

Article 132 shall be changed as follows:

*"The term of protection
Article 132*

The rights of the producer of phonograms shall last for 50 years after the fixation is made. If the phonogram is lawfully published during this period, the rights shall last 50 years from such first publication. If no such publication has taken place, but the phonogram has during this period been lawfully communicated to the public, the rights shall last 50 years from such first communication to the public."

Article 17

At the end of It. 4 of Article 134 the dot shall be replaced by a semicolon and a new It. 5. shall be added as follows:

"5. *the making available to the public of its videograms.*"

Article 18

At the end of It. 5 of Article 137 the dot shall be replaced by a semicolon and a new It. 6. shall be added as follows:

"6. *the making available to the public of fixations of its broadcasts.*"

Article 19

In Paragraph (1) of Article 140 after the words "lawfully publishes" the following words shall be added: "*or communicates to the public*".

In Paragraph (2) of Article 140 after the words "lawful publication" the following words shall be added: "*or communication to the public*".

Article 20

After Article 141 a new Section 6 with new articles 141.a -141.f shall be added as follows:

"Section 6 Rights of Makers of Databases

Databases Article 141.a

- (1) *A database shall mean a collection of independent works, data or other materials in any form, arranged in a systematic or methodical way and individually accessible by electronic or other means, whereby either the obtaining, verification or presentation of its contents demands a qualitatively or quantitatively substantial investment.*
- (2) *The protection of a database or its contents shall apply irrespective of their protection by copyright or by other rights. The inclusion of a material into a database and its use shall be without prejudice to rights existing in respect of that material.*

Scope of protection Article 141.b

- (1) *Protection of a database under this Section shall apply to:*
- 1. the whole contents of a database;*
 - 2. every qualitatively or quantitatively substantial part of its contents;*
 - 3. qualitatively or quantitatively insubstantial parts of its contents, when they are used repeatedly and systematically, which conflicts with a normal exploitation of that database or which unreasonably prejudice the legitimate interests of the maker of the database.*
- (2) *Protection under this Section shall not apply to computer programs used in the making or operation of electronic databases.*

Rights of the maker of databases Article 141.c

The maker of a database shall have the exclusive right:

- 1. to reproduce his database;*
- 2. to distribute copies of his database;*
- 3. to rent copies of his database;*
- 4. to make available to the public his database;*
- 5. to other forms of communication to the public of his database.*

Rights and obligations of lawful users Article 141.d

- (1) *A lawful user of a disclosed database or a copy thereof shall free to use qualitatively or quantitatively insubstantial parts of its contents for any purposes whatsoever. Where the user is authorized to use only a part of the database, this Article shall apply only to that part.*
- (2) *A lawful user of a disclosed database or a copy thereof may not perform acts which conflict with a normal exploitation of that database or which unreasonably prejudice the legitimate interests of the maker of the database.*

(3) *A lawful user of a disclosed database or a copy thereof may not cause prejudice to the copyright or related rights in respect of the works or subject matter contained in that database.*

(4) *Any contractual provision contrary to this Article shall be null and void.*

Employment and contracts for hire
Article 141.e

Where a database is made by an employee in the execution of his duties or following the instructions given by his employer, or where it is made by a person under a contract for hire, it shall be deemed that the exclusive rights to such database are exclusively and without limitations assigned to the employer or to the ordering party, unless otherwise provided by contract.

Term of protection
Article 141.f

(1) *The rights of a maker of databases shall last for 15 years after the completion of the making of the database. If the database is lawfully disclosed within this period, the rights shall last 15 years from such first disclosure.*

(2) *Any qualitatively or quantitatively substantial change to the contents of a database, which results in a qualitatively or quantitatively substantial new investment, shall qualify the database resulting from that investment for a new term of protection. A substantial change of contents includes also the accumulation of successive additions, deletions or alterations of the database."*

Article 21

In Paragraph (2) of Article 144 the wording "bachelor of laws degree" (shall be replaced by the wording "bachelor of laws *university* degree".

Article 22

In Paragraph (1) of Article 147, after the words "disclosed works, and" in the end of the introductory sentence, the words "*in particular*" shall be added.

In It. 4, Paragraph (1) of Article 147, at the end of the sentence the following words shall be added: "*and its photocopying beyond the scope of Article 50 of this Act.*"

Article 23

In Paragraph (2) of Article 151 the number "148" shall be replaced by "147".

In Article 151, paragraphs (3) and (4) shall be replaced with a new paragraph (3) as follows:

"(3) The office grants its permission in the form of an administrative order. The final order shall be published in the Official Gazette of the Republic of Slovenia."

Article 24

In Paragraph (4) of Article 163 after the words "Amendments to the statutes" the words "*and to general tariffs*" shall be added.

Article 25

Article 166 shall be changed as follows:

*"Protection of rights-management information
166.člen*

(1) *It shall be deemed that a person infringes the exclusive rights granted by this Act, when it commits any of the following acts by which it induces, enables, facilitates or conceals the infringements of the rights under this Act:*

- 1. the removal or alteration of any electronic rights-management information;*
- 2. the reproduction, distribution, importation for distribution, rental or communication to the public of a copyright work or subject matter of related rights, where electronic rights-management information has been removed or altered without authority.*

(2) *Rights-management information as mentioned in the foregoing paragraph, means any information provided by right holders on the identification of the subject matter of rights, the author, the right holder, the terms and conditions for use, and their relevant numbers and codes, when they are indicated on a copy of a copyright work or subject matter of related rights or when they appear in connection with their communication to the public."*

Article 26

After Article 166, a new Article 166.a shall be added as follows:

*"Protection of technological measures
Article 166.a*

(1) *It shall be deemed that a person infringes the exclusive rights granted by this Act, when it commits any anti-protective act for the purpose of the circumvention of effective technological measures, designed to protect the rights under this Act.*

(2) *Technological measures as mentioned in the foregoing paragraph, mean any technology, computer program or other measure that are designed to, in the normal course of their operation, prevent or inhibit the infringement of rights under this Act. These measures shall be deemed effective, where the access to or use of a copyright work or subject matter of related rights is controlled through a protection process which achieves the protection goal in an operational and reliable manner and with the authorization of the right holders.*

(3) *An anti-protective act as mentioned in the first paragraph of this Article, means any circumvention of effective technology measures. It means in addition the manufacture, importation for distribution, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of a technology, device or computer program, or the unauthorized provision of services, which:*

- 1 are advertised or marketed for the purpose of circumvention of effective technological measures; or*
- 2. have a significant commercial purpose or use only from the aspect of circumvention of effective technological measures; or*
- 3. are primarily designed, produced, adapted or performed for the purpose of the circumvention of effective technological measures.*

(4) *This Article shall apply mutatis mutandis also to any technology, device or computer program, by which electronic rights-management information is removed or altered (Article 166)."*

Article 27

Article 184 shall be changed as follows:

"Article 184

- (1) By a fine of no less than SLT 400.000 shall be punishable for a misdemeanor any legal entity or any independent individual entrepreneur who:
1. without the assignment of the relevant economic right, when such assignment is required under this Act, reproduces, distributes, rents, publicly performs, publicly transmits, publicly communicates, publicly presents, broadcasts, rebroadcasts, secondary broadcasts, *makes available to the public*, transforms or audiovisually adapts a work or a copy of it, *or otherwise uses it* (Article 21 and 22);
 2. *possesses a copy of a computer program for commercial purposes, knowing or having reason to believe, that it is an infringing copy* (Article 116, item 2);
 3. without the assignment of the relevant exclusive right, when such assignment is required under this Act, *fixes a live performance*, reproduces, distributes, rents *or makes available to the public* a fixation of a performance or a phonogram or videogram with a performance, *or otherwise uses a performance* (Article 121);
 4. without the assignment of the relevant exclusive right, when such assignment is required under this Act, reproduces, distributes, rents *or makes available to the public* a phonogram or videogram, *or otherwise uses it* (Articles 129, 134);
 5. without the assignment of the relevant exclusive right, when such assignment is required under this Act, *retransmits, fixes*, reproduces, distributes *or makes available to the public* a broadcast or a fixation of a broadcast, *or otherwise uses it* (Article 137);
 6. *without the assignment of the relevant exclusive right, when such assignment is required under this Act, reproduces, distributes, rents or makes available to the public a database or a copy of it, or otherwise uses it* (Articles 141. c);
 7. *removes or alters any rights-management information* (Article 166, Paragraph (1), Item 1);
 8. *reproduces, distributes, imports for distribution, rents, or communicates to the public a copyright work or subject matter of related rights or a copy thereof where electronic rights-management information has been removed or altered without authorization* (Article 166, Paragraph (1), Item 2);
 9. *circumvents effective technological measures or manufactures, imports for distribution, distributes, sells, rents, advertises for sale or rental, possesses for commercial purposes a technology, device or computer program, or provides a service or carries out any other anti-protective act for the purpose of circumvention of effective technological measures, designed to protect the rights under this Act* (Article 166 a, Paragraphs (1), (2) and (3));
 10. *manufactures, imports for distribution, distributes, sells, rents, advertises for sale or rental, possesses for commercial purposes a technology, device or computer program for the removal or alteration of rights-management information* (Article 166.a, Paragraph (4)).
- (2) By a fine of no less than SLT 80.000 shall be punishable an institutional legal representative of a legal entity who commits a misdemeanor mentioned in the foregoing paragraph.
- (3) By a fine of no less than SLT 80.000 shall be punishable an individual who commits a misdemeanor mentioned under paragraph (1) of this Article.
- (4) *The articles which were used or intended for or created by the misdemeanor shall be confiscated. "*

Article 28

Paragraph (1) of Article 186 shall be changed as follows:

"Article 186

(1) Control over the implementation of provisions of this Act contained in Items 1 to 10 of Paragraph (1) of Article 184 *and Items 1 to 3 of Paragraph (1) of Article 185* shall be the competence of the Market Inspection. *The proceedings for these cases are summary.*"

Article 29

In Article 189 a new Paragraph (4) shall be added as follows:

"(4) The rights which pursuant to this Act can be administered only collectively, may be administered individually as long as the Office has not granted a permission for their collective administration or until a respective authors' collective agreement has not been entered into."

Article 30

In Article 193 a new Paragraph (4) shall be added as follows:

"(4) This Act applies to databases as subject matter of related rights, the making of which was completed after 1 January 1983."

Article 31

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.
