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The unofficial consolidated version of the Copyright and Related Rights Act comprises:

- Copyright and Related Rights Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 21/95 of 14 April 1995),
- Act Amending the Copyright and Related Rights Act – ZASP-A (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 9/01 of 9 February 2001),
- Act Regulating Customs Measures Relating to Infringements of Intellectual Property Rights – ZCUKPIL (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 30/01 of 26 April 2001),
- Act Amending the Copyright and Related Rights Act – ZASP-B (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 43/04 of 26 April 2004),
- Copyright and Related Rights Act – official consolidated version – ZASP-UPB1 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 94/04 of 26 August 2004),
- Act Amending the Copyright and Related Rights Act – ZASP-C (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 17/06 of 17 February 2006),
- Copyright and Related Rights Act – official consolidated version – ZASP-UPB2 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 44/06 of 25 April 2006),
- Euro Adoption Act – ZUE (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 114/06 of 9 November 2006),
- Act Amending the Copyright and Related Rights Act – ZASP-D (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 139/06 of 29 December 2006),
- Copyright and Related Rights Act – official consolidated version – ZASP-UPB3 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 16/07 of 23 February 2007),
- Act Amending the Copyright and Related Rights Act – ZASP-E (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 68/08 of 8 July 2008),
- Act Amending the Copyright and Related Rights Act – ZASP-F (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 110/13 of 27 December 2013),
- Act Amending the Copyright and Related Rights Act – ZASP-G (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 56/15 of 29 July 2015),
- Collective Management of Copyright and Related Rights Act – ZKUASP (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 63/16 of 7 October 2016),
- Act Amending the Copyright and Related Rights Act – ZASP-H (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 59/19 of 4 October 2019),
- Act Amending the Copyright and Related Rights Act – ZASP-I (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 130/22 of 11 October 2022).

## **THE COPYRIGHT AND RELATED RIGHTS ACT**

### **(Unofficial consolidated version No. 14)**

#### Chapter One

#### GENERAL PROVISIONS

## Subject matter of the Act

### Article 1

(1) This Act regulates:

1. the right of authors with respect to their works of literature, science and art (copyright);
2. the rights of performers, producers of phonograms, film producers, broadcasting organisations, publishers and makers of databases (related rights);
3. **(Ceased to be in force)**

(2) This Act transposes the following directives:

1. Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20), as last amended by Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, p. 92);
2. Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, 22.6.2001, p. 10), as last amended by Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, p. 92);
3. Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (OJ L 111, 5.5.2009, p. 16);
4. Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works (OJ L 299, 27.10.2012, p. 5) and
5. Directive 2017/1564/EU of the European Parliament And of the Council of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 242, 20.9.2017, p. 6).

(3) This Act transposes the following directives:

1. Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (OJ L 248, 6.10.1993, p. 15), as last amended by Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC (OJ L 130, 17.5.2019, p. 82), except in the part relating to the collective management of copyright and related rights;
2. Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art (OJ L 272, 13.10.2001, p. 32), except in the part relating to the collective management of copyright and related rights;
3. Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ L 157, 30.4.2004, p. 45), except in the part relating to the enforcement of industrial property rights;
4. Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 376, 27.12.2006, p. 28), except in the part relating to the collective management of copyright and related rights;

5. Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights (OJ L 372, 27.12.2006, p. 12), as last amended by Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights (OJ L 265, 11.10.2011, p. 1), except in the part relating to the collective management of copyright and related rights;
6. Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC (OJ L 130, 17.5.2019, p. 82), except in the part relating to the collective management of copyright and related rights, and
7. Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, p. 92), except in the part relating to the collective management of copyright and related rights.

## **Public**

### **Article 2**

The term "public" as used in this Act shall mean a larger number of persons outside the usual circle of a family or circle of personal acquaintances.

## **Disclosure and publication**

### **Article 3**

(1) Disclosure as used in this Act shall mean that a copyright work or subject matter of a related right has been made available to the public with the consent of the right holder.

(2) Publication as used in this Act shall mean that a sufficient quantity of already produced copies of a copyright work, or of a subject matter of a related right, has been offered to the public or put into circulation with the consent of the right holder.

## **Relation between copyright and related rights**

### **Article 4**

(1) Protection of related rights under this Act shall leave intact and shall in no way affect the protection of copyright.

(2) Provisions of this Act concerning elements of a copyright work, presumption of authorship, co-authors, authors of compound works, contents of the economic and other rights of the author, relationship between copyright and ownership, limitations to copyright, term of copyright (beginning and effect of the running) and legal transactions involving copyright (Sections 1 and 2 of Chapter Three of this Act) shall apply, *mutatis mutandis*, to related rights, unless otherwise provided in Chapter Five of this Act.

## Chapter Two

### SUBSTANTIVE COPYRIGHT LAW

#### Section 1

#### COPYRIGHT WORKS

##### **Protected works**

##### **Article 5**

(1) Copyright works are individual intellectual creations in the fields of literature, science and the arts, which may be expressed in any mode, unless otherwise provided by this Act.

(2) The following works, in particular, shall be considered as copyright works:

1. spoken works such as speeches, sermons and lectures;
2. written works such as belletristic works, articles, manuals, studies, and computer programs;
3. musical works with or without words;
4. theatrical or theatrical and musical works and puppetry works;
5. choreographic works and works of pantomime;
6. photographic works and works produced by a process similar to photography;
7. audiovisual works;
8. works of fine art such as paintings, graphic works and sculptures;
9. works of architecture such as sketches, plans, and built structures in the fields of architecture, urban planning and landscape architecture;
10. works of applied art and industrial design;
11. cartographic works;
12. presentations of a scientific, educational or technical nature (technical drawings, plans, sketches, tables, expert opinions, three-dimensional representations and other works of a similar nature).

##### **Elements of a copyright work**

##### **Article 6**

(1) Drafts, component parts and titles of works, which are in themselves individual intellectual creations, shall enjoy the same protection as the work itself.

(2) Notwithstanding the previous paragraph, it shall be prohibited to use for the title of a work such a title as has already been used for the same kind of work if said title creates or is likely to create confusion as to the source of the work.

##### **Transformation of copyright works**

## **Article 7**

(1) Translations, adaptations, arrangements, changes and other transformations of a pre-existing work or of other material, which are individual intellectual creations, shall be deemed independent works.

(2) Rights of authors of pre-existing works may not be infringed by transformation referred to in the preceding paragraph.

## **Collections**

### **Article 8**

(1) Collections of works or of other materials, such as encyclopaedias, anthologies, databases and collections of documents, which, by virtue of the selection, coordination or arrangement of their contents, are individual intellectual creations, shall be deemed independent works.

(2) Rights of authors of pre-existing works shall not be infringed upon by the inclusion of such works in a collection; on the other hand, by virtue of its inclusion in a collection, pre-existing material does not become a protected work.

(3) Databases referred to in paragraph one of this Article shall be 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.

## **Non-protected creations**

### **Article 9**

- (1) Copyright protection shall not be afforded to:
1. ideas, principles or discoveries;
  2. official legislative, administrative or judicial texts; or
  3. folk literary and artistic creations.

(2) Translations of texts referred to in point 2 of the preceding paragraph shall enjoy copyright protection unless they are published as official texts.

## Section 2

### AUTHOR

#### **Natural person**

### **Article 10**

An author is a natural person who has created a copyright work.

## **Presumption of authorship**

### **Article 11**

(1) A person whose name, pseudonym or artist's mark appears in the customary manner on the work itself, or is so indicated at the time of disclosure of the work, shall be deemed to be the author of the work until proved otherwise.

(2) Where the author is not known pursuant to the previous paragraph, the person who published the work shall be deemed to be entitled to enforce copyright. If such a person is not indicated, the person who disclosed the work shall be so entitled.

(3) The preceding paragraph shall cease to apply once the identity of the author becomes known. The entitled person referred to in the preceding paragraph shall transfer the benefits derived from copyright to the author unless otherwise provided by contract.

## **Co-authors**

### **Article 12**

(1) If a copyright work created by the collaboration of two or more persons constitutes an inseparable whole, all co-authors of this work shall have joint copyright in it.

(2) The right to decide on the use of such a work belongs jointly to all co-authors; this notwithstanding, individual co-authors may not obstruct such decisions, as this would be contrary to the principles of good faith and fairness.

(3) Co-authors' shares shall be determined in proportion to the extent of their respective contributions to the creation of the work unless they are set otherwise by contract.

## **Authors of compound works**

### **Article 13**

The provisions of the preceding Article shall apply, *mutatis mutandis*, in cases where several authors combine their works for exploitation in common.

Section 3

COPYRIGHT

Subsection 1

GENERAL

## **Origin of copyright**

### **Article 14**

Copyright shall belong to the author by virtue of the creation of the work.

## **Content of copyright**

### **Article 15**

Copyright shall be an indivisible right to a work from which exclusive personal rights (moral rights), exclusive property rights (economic rights) and other rights of the author shall arise.

#### Subsection 2

## **MORAL RIGHTS**

### **Contents**

### **Article 16**

Moral rights shall protect the author with respect to his intellectual and personal ties to the work.

## **Right to the first disclosure**

### **Article 17**

The author shall have the exclusive right to decide whether, when and how his work is to be disclosed for the first time.

## **Right to recognition of authorship**

### **Article 18**

(1) The author shall have the exclusive right to recognition of the authorship of his work.

(2) The author may decide whether and how his authorship is to be indicated at the time of disclosure of his work.

## **Right to the integrity of the work**

## **Article 19**

The author shall have the exclusive right to prohibit any distortion or any other tampering with his work, as well as any use of his work, if such tampering or use might be prejudicial to his person.

### **Right of withdrawal**

## **Article 20**

(1) The author shall have the exclusive right to revoke economic rights granted to a right-holder if he has serious moral reasons for this and on condition that he first reimburses the right-holder for the damage caused by such revocation.

(2) With the enforcement of the right of withdrawal, the economic rights of the right-holder shall expire.

(3) The author shall pay appropriate compensation to the right-holder. The right-holder shall inform the author of the extent of the damage incurred within three months of receipt of the notice of withdrawal. If the right-holder fails to do so, the right of withdrawal shall take effect on the expiry of this time limit.

(4) If the author subsequently wishes to again transfer economic rights in his work within a period of ten years of enforcing his right of withdrawal, he shall first offer these rights to the previous holder under the same conditions as were originally agreed.

(5) The provisions of this Article shall not apply to computer programs, audiovisual works or databases.

### Subsection 3

## ECONOMIC RIGHTS

### **Contents**

## **Article 21**

(1) Economic rights shall protect the author's economic interests by giving the author an exclusive right to authorise or prohibit the use of his work or copies thereof.

(2) Unless otherwise provided by this Act, the use of a copyright work shall be permitted only if the author has transferred the appropriate economic right in accordance with this Act and under the conditions determined by the author.

### **Economic rights**

## **Article 22**



(1) Use of a work in material form shall include in particular the right of reproduction (Article 23).

(2) Use of a work in non-material form (communication to the public) shall include 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 means of 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 32a).

(3) Use of the work in a modified form shall include 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 shall include the following rights:

1. the right of distribution (Article 24);
2. the rental right (Article 25).

## **Right of reproduction**

### **Article 23**

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

(2) The work shall be reproduced in particular by graphic reproduction, three-dimensional reproduction, building or realising an architectural structure, photographic reproduction, sound or visual recording, or saving in electronic form.

## **Right of distribution**

### **Article 24**

(1) The right of distribution shall be the exclusive right to put into circulation the original or copies of a work by sale or other form of transfer of ownership, or to offer the same to the public with such intent.

(2) The right of distribution shall also include the exclusive right to import copies of the work to a country with a view to their further distribution, regardless of whether such copies were lawfully made.

## **Rental right**

### **Article 25**

(1) The rental right shall be the exclusive right of making available for use the original or copies of a work for a limited period of time and for direct or indirect economic advantage.

- (2) The provisions of the preceding paragraph shall not apply to the use of:
1. architectural structures;
  2. originals or copies of works of applied art or industrial design;
  3. originals or copies of works for the purpose of public communication;
  4. works for on-the-spot reference;
  5. works by persons acting within the scope of their employment where such use is intended exclusively for the execution of their work-related duties.

### **Right of public performance**

#### **Article 26**

- The right of public performance shall include the exclusive rights:
1. to recite a literary work in public by live delivery (right of public recitation);
  2. to communicate a musical work to the public by live performance (right of public musical performance);
  3. to communicate a work to the public by performing it on stage (right of public stage presentation).

### **Right of public transmission**

#### **Article 27**

The right of public transmission shall be the exclusive right to relay recitations, performances or presentations of a work by loudspeaker, screen or similar device beyond their original venue or location.

### **Right of public communication by means of phonograms and videograms**

#### **Article 28**

The right of public communication by means of phonograms and videograms shall be the exclusive right to communicate to the public recitations, performances or stage presentations of a work which are fixed in a phonogram or videogram.

### **Right of public presentation**

#### **Article 29**

The right of public presentation shall be the exclusive right to communicate to the public, by technical means, an audiovisual work, a photographic work, a work of fine art, architecture, urban planning, applied art, industrial design or cartography, or a presentation of a scientific or technical nature.

## **Right of broadcasting**

### **Article 30**

(1) The right of radio broadcasting shall be the exclusive right to communicate a work to the public by radio or television programme signals, intended to the public, either by wireless means (including satellite) or by wire (including cable or microwave system).

(2) Communication to the public by satellite within the meaning of the preceding paragraph exists when, under the control and responsibility of a broadcasting organisation, programme-carrying signals intended for the public are sent in an uninterrupted chain of communication to a satellite and back down to Earth.

(3) If the programme-carrying signals are encrypted, communication to the public by satellite within the meaning of the preceding paragraph shall be deemed to have occurred provided that the means for decrypting are provided to the public by the broadcasting organisation or with its consent.

## **Right of rebroadcasting**

### **Article 31**

(1) The right of rebroadcasting shall be the exclusive right to the simultaneous, unaltered and unabridged retransmission of initially transmitted programme-carrying signals containing a work if such retransmission is carried out by a person other than the original broadcasting organisation (retransmission operator), irrespective of the manner in which the retransmission operator obtains the programme-carrying signals from the original broadcasting organisation for that purpose.

(2) An initial transmission via the Internet shall not be deemed to be a rebroadcast. However, a retransmission via an Internet access service shall be deemed to be a rebroadcast when it takes place in a managed environment in which the retransmission operator provides secure retransmission exclusively to lawful users.

(3) Communication to the public shall also be deemed to be a rebroadcast when a broadcasting organisation transmits its programme signals, initially and without public access, to a retransmission operator other than the broadcasting organisation (direct broadcasting) that retransmits them to the public. The broadcasting organisation and the retransmission operator shall be deemed to be participating in a single act of communication to the public, for which they shall each, in respect of their contributions, obtain the author's permission.

## **Right of secondary broadcasting**

### **Article 32**

The right of secondary broadcasting shall be the exclusive right to communicate a broadcast work to the public by loudspeaker, screen or similar device.

## **Right of making available to the public**

## **Article 32a**

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

## **Right of transformation**

### **Article 33**

(1) The right of transformation shall be the exclusive right to translate, adapt for stage, musically arrange, alter or otherwise transform a pre-existing work.

(2) The right referred to in the preceding paragraph shall also apply to cases where a pre-existing work is included or incorporated in a new work in unaltered form.

(3) The author of the pre-existing work shall retain the exclusive right to use the work derived from his work unless otherwise provided by this Act or by contract.

## Subsection 4

## OTHER RIGHTS OF THE AUTHOR

### **Right of access and of delivery**

#### **Article 34**

(1) The author shall have a right of access to the original or to a copy of his work which is in the possession of another person if such access is necessary for the exercise of his right of reproduction or of transformation of the work and does not adversely affect the legitimate interests of the possessor.

(2) The author may demand that the original of his work of fine art or of a photographic work be delivered to him for the purpose of exhibition in the Republic of Slovenia if he can demonstrate a strong interest therein.

(3) The delivery of the original under the preceding paragraph may be conditional upon depositing sufficient security or upon acquiring insurance coverage in the amount of the market value of the original.

(4) The author shall effect the access to and exhibition of the work with the least inconvenience to the possessor and at his own expense. The author shall be liable for any damage to the original or copy of the work, this irrespective of culpability.

## **Resale right**

#### **Article 35**

(1) Where an original of a work of fine art is resold subsequent to the first transfer of the work by the author, the author shall have the right to be notified thereof, and also the right to remuneration as set out in this Article, provided that sellers, buyers or intermediaries are art market professionals, for example salesrooms, art galleries or auction houses.

(2) Obligations referred to in the preceding paragraph shall be the joint obligation of the seller, buyer and intermediary.

(3) Originals of works of fine art referred to in paragraph one shall mean original works of fine art, such as paintings, collages, drawings, engravings, prints, photographs, sculptures, tapestries, ceramics and glassware, that are made by the author themselves or are copies of such works considered to be originals. Copies of works shall be considered to be originals insofar as they have been made in limited numbers by the author himself or under his authority and have normally been numbered and signed by the author.

(4) The resale right remuneration shall be set as a percentage of the retail price of the original (net of taxes).

(5) The remuneration referred to in the preceding paragraph, which may not exceed EUR 12,500, shall be:

1. 4% for a price up to EUR 50,000;
2. 3% for the portion of the price between EUR 50,000 and EUR 200,000;
3. 1% for the portion of the price between EUR 200,000 and EUR 350,000;
4. 0.5% for the portion of the price between EUR 350,000 and EUR 500,000;
5. 0.25% for the portion of the price exceeding EUR 500,000.

(6) The resale right may not be waived or assigned inter vivos or be subject to execution.

## **Public lending right**

### **Article 36**

(1) The public lending right is the right to appropriate remuneration in accordance with the Librarianship Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 87/01 and 96/02 – ZUJIK) when the original or a copy of a work is made available for use for a limited period of time, without direct or indirect economic advantage, and if done through an organisation performing such activity as a public service.

(2) The provisions of the preceding paragraph shall not apply to the use of:

1. originals or copies of library materials in the national library, school and academic libraries, or special libraries;
2. architectural structures;
3. originals or copies of works of applied art and industrial design;
4. originals or copies of works for the purpose of public communication;
5. works for on-the-spot reference or for lending among organisations;
6. works by persons acting within the scope of their employment where such use is intended exclusively for the execution of their work-related duties.

(3) Lending of originals or copies of computer programs and databases to the public shall be the exclusive right of their author.

## **Right to remuneration**

### **Article 37**

(1) The author shall have a right to fair compensation for sound or visual recording and photocopying of his work done within the scope of private or other internal use referred to in Article 50 of this Act.

(2) Remuneration referred to the preceding paragraph with respect to sound or visual recording shall be paid:

1. upon the first sale or importation of new devices for sound or visual recording and
2. upon the first sale or importation of new blank audio or video fixation media.

(3) Remuneration referred to in paragraph one of this Article with respect to photocopying shall be paid:

1. upon the first sale or importation of new devices for photocopying and
2. on photocopies made for sale, i.e. monthly depending on their probable number.

(4) For the purposes of this Act, importation shall be considered to be the release of goods into free circulation in accordance with the customs regulations of the European Community and any entry of goods into the territory of the Republic of Slovenia from other EU Member States.

(5) Photocopying under this Article shall be considered as equivalent to other similar reproduction techniques; devices for sound or visual recording shall be considered as equivalent to other devices which achieve the same effect.

(6) The right to remuneration under paragraph one of this Article may not be waived or assigned inter vivos or be subject to execution.

### **Persons liable**

### **Article 38**

(1) Persons liable to pay remuneration under the preceding Article shall be as follows: manufacturers of sound or visual recording devices, manufacturers of photocopying devices, manufacturers of blank audio or video fixation media, and holders of devices who provide photocopying services for payment. In addition to manufacturers, importers of devices and fixation media shall be jointly liable unless such imports are intended for private and non-commercial use as part of their personal luggage.

(2) Manufacturers referred to in the preceding paragraph shall not be liable to pay remuneration with respect to devices or fixation media which are made for export.

(3) Persons referred to in paragraph one of this Article shall not be liable to pay remuneration with respect to devices or fixation media which they have sold or imported for the first time for the purposes of:

1. commercial reproduction of authors' works for which the authorisation of the right-holders should be obtained or
2. reproduction of authors' works for the benefit of disabled persons when such reproduction is directly related to their disability.

(4) **(Ceased to be in force)**

### **Amount of remuneration**

**Article 39**  
**(Ceased to be in force)**

Subsection 5

RELATIONSHIP BETWEEN COPYRIGHT AND OWNERSHIP

**General**

**Article 40**

Copyright shall be independent from and compatible with ownership or other property rights in any material object in which the copyright work is embodied unless otherwise provided by law.

**Separation of legal transactions**

**Article 41**

(1) Legal transactions involving individual economic rights or other rights of the author with respect to his work shall not affect the ownership of the material object in which the work is embodied unless otherwise provided by law or contract.

(2) Legal transactions involving ownership in the material object in which the work is embodied shall not affect individual economic rights or other rights of the author with respect to his work unless otherwise provided by law or contract.

**Community property of spouses**

**Article 42**

Only economic benefits deriving from a copyright shall be a part of the community property of spouses.

**Exhaustion of the right of distribution**

**Article 43**

The right of distribution in respect of the original or copies of a work shall be exhausted within the European Union with the first sale or other transfer of ownership in the European Union of that original or copies of the work by the author or with his consent.

**Limitation to the right of transformation**

## **Article 44**

(1) The owner of an architectural structure that has been built shall be free to make reconstructions thereof.

(2) When implementing the provision of the preceding paragraph, the owner shall be obliged to respect the author's right to integrity of the work.

(3) Where a structure has been awarded a prize in an open competition, the owner shall be obliged to obtain the consent of the author. Such consent may not involve disproportionate costs for the owner or considerably prolong the time of reconstruction.

## **Protection of the original of a work**

### **Article 45**

(1) The owner of the original of a work who, taking account of the circumstances of the case, should assume that the author has a legitimate interest in its preservation, shall not destroy such an original without first offering to return it to the author on payment of the value of the material.

(2) If such return is not possible, the owner shall enable the author to make a copy of the original of the work in an appropriate manner.

(3) In the case of an architectural structure, the author of such work shall only have the right to make photographs of the work and to demand the delivery of the reproductions of designs at his own expense.

## Section 4

### LIMITATIONS TO COPYRIGHT

#### **General rule**

#### **Article 46**

Limitations to copyright shall be permissible in cases laid down in this Section, provided that the extent of such use of copyright works is limited by the intended purpose, is compatible with fair practice, does not conflict with normal use of the work and does not unreasonably prejudice the legitimate interests of the author.

#### Subsection 1

### LEGAL LICENCES

#### **Teaching and periodicals**



## **Article 47**

(1) Without the transfer of an appropriate economic right, but upon payment of equitable remuneration, it shall be permissible:

1. to reproduce in readers and textbooks intended for teaching parts of works and single works of photography, fine arts, architecture, applied art, industrial design and cartography, provided these are already disclosed works of a number of authors;
2. to reproduce in periodical publications or press summaries published articles on current economic, political or religious topics or other subject matter of the same character, unless the author has expressly prohibited it.

(2) Provisions of the preceding paragraph shall apply, *mutatis mutandis*, to public communication of the aforementioned works.

(3) In cases referred to in the preceding paragraphs, the source and authorship of the work shall be indicated if they are indicated on the work used.

## **Disabled persons**

### **Article 47a (Deleted)**

## **Distance or cross-border teaching by electronic means**

### **Article 47b**

(1) Provided that it is not intended to achieve direct or indirect economic advantage, it shall be permissible, without the transfer of an appropriate economic right but upon payment of equitable remuneration, for the purpose of illustration in distance or cross-border teaching by electronic means, including examinations:

1. to reproduce in electronic form and communicate to the public disclosed works;
2. to transform databases and reproduce in electronic form, distribute and communicate to the public the transformed databases.

(2) The use referred to in the preceding paragraph shall be made provided that such use is under the responsibility of an educational establishment, that it takes place on its premises or on other premises or through a secure electronic environment which is accessible, in particular by means of authentication procedures, only to pupils or students enrolled in that programme, and to teachers and other persons providing instruction.

(3) The use referred to in paragraph one of this Article shall be permitted to the extent of up to 15% of the work, but a photograph, an illustration or a very short work such as a short article may be used in its entirety. The work may not be used in such a way so as to replace its purchase, e.g. by successive reproductions of extracts from the same work.

(4) Textbooks, workbooks, exercise books and other teaching materials intended primarily for use in teaching, and graphic editions of musical works, shall be used under a licence permitting the use of the work for the purpose of illustration in teaching pursuant to paragraph one of this Article, provided that such licences are readily available on the market. The licensor shall publish the conditions of use in a prominent place on its website and shall inform the association of educational establishments which is the representative association of users under the Collective Management of Copyright and Related Rights Act and the

ministry responsible for education thereof. However, if the licences are not readily available on the market, those works may also be used under the conditions laid down in this Article.

(5) Where the use of the work referred to in this Article is made through a secure electronic environment, it shall be deemed to take place exclusively in the Member State of the European Union in which the educational establishment is established.

(6) In cases referred to in paragraph one of this Article, the source and authorship of the work shall be indicated if they are indicated on the work used.

(7) Any contractual stipulation contrary to this Article shall be null and void.

(8) The methodology for determining the value and range of tariffs for each method of use of copyright works in teaching and a cap on the tariff for the payment of the remuneration referred to in paragraph one of this Article shall be determined by the Government of the Republic of Slovenia by way of a decree. Paragraph five of Article 30 and Article 31 of the Collective Management of Copyright and Related Rights Act shall not apply to the determination of the tariff for the payment of the remuneration referred to in paragraph one of this Article. Notwithstanding the provisions of Article 44 of the Collective Management of Copyright and Related Rights Act, the agreement on the payment of the remuneration referred to in this Article shall be concluded between the ministry responsible for education and the collective management organisations and shall be published in the Official Gazette of the Republic of Slovenia.

## Subsection 2

### FREE USE

### Right to information

#### Article 48

- (1) For the purposes of informing the public, it shall be free:
1. to reproduce works which are capable of being seen or heard as a part of a current event that is being reported on;
  2. to prepare and reproduce abstracts of published newspaper and similar articles in the form of press summaries;
  3. to reproduce public political speeches and public speeches made at hearings before state, religious or similar bodies;
  4. to use the news of the day and pieces of news which have the nature of a press release.

(2) The provisions of the preceding paragraph shall apply, *mutatis mutandis*, to public communication of the aforementioned works.

(3) In cases referred to in the preceding paragraphs, the source and authorship of the work shall be indicated if they are indicated on the work used.

### Persons with disabilities and beneficiary persons

#### Article 48a

For the benefit of persons with disabilities and the beneficiary persons referred to in Article 48b of this Act, the reproduction that also includes the necessary non-substantive adjustments, distribution and communication to the public of published works, shall be free, provided that such use is directly related to their disability and to the extent required by the individual form of disability and is not intended to achieve direct or indirect economic benefit.

## **Beneficiary person, work for a beneficiary person and accessible format copy**

### **Article 48b**

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

(2) "Work" for a beneficiary person means a work in the form of a book, periodical, newspaper, magazine or other kind of writing, notation, including sheet music, and related illustrations, in any media, including in audio form such as audiobooks and in digital format, which is protected by copyright or related rights and which is published or otherwise lawfully made publicly available.

(3) "Accessible format copy" means a copy of a work for a beneficiary person in an alternative manner or form that gives a beneficiary person access to the work, including allowing such person to have access as feasibly and comfortably as a person without any of the impairments or disabilities referred to in paragraph one of this Article.

## **Authorised entity and exchange of accessible format copies for beneficiary persons**

### **Article 48c**

(1) An authorised entity established in the Republic of Slovenia may for a beneficiary person or another authorised entity established in any Member State and under the conditions referred to in Article 48a of this Act make an accessible format copy of a work, or communicate, distribute or lend an accessible format copy to a beneficiary person or another authorised entity for the purpose of exclusive use by a beneficiary person.

(2) A beneficiary person, or an authorised entity established in the Republic of Slovenia, may obtain from an authorised entity established in a Member State of the European Union an accessible format copy made of work for the beneficiary person, or have access to it for the exclusive use of the beneficiary person.

(3) The authorised entity referred to in paragraph one of this Article shall be deemed to be an entity that provides education, training, adaptive reading or information access to beneficiary persons on a non-profit basis.

(4) The authorised entity referred to in paragraph one of this Article shall adopt and implement measures to ensure that it:

1. communicates to the public, distributes or makes available accessible format copies only to beneficiary persons or other authorised entities;
2. discourages the unauthorised reproduction, distribution or communication to the public of accessible format copies, e.g. by means of notices on its website and by informing beneficiary persons of the authorised and unauthorised means of using accessible format copies;
3. demonstrates due care in, and maintains records of, its handling of works for beneficiary persons and of accessible format copies thereof;
4. publishes and updates on its website or in any other manner information on how it complies with the obligations under points 1 to 3 of this paragraph;
5. In cases where accessible format copies are exchanged with an authorised entity established in another Member State of the European Union, it shall, upon request, in an accessible way provide beneficiary persons, other authorised entities or rightholders with the list of works for which it has accessible format copies and available formats, and with the names and contact details of authorised entities with which it has engaged in the exchange of accessible format copies.

(5) The ministry responsible for culture shall publish on its website a list providing contact details of authorised entities established in the Republic of Slovenia that are engaged in the exchange of accessible format copies with an authorised entity established in another Member State of the European Union. This list shall be published on the basis of the information provided to the ministry responsible for culture by the authorised entities referred to in paragraph of this Article on a voluntary basis.

(6) Contractual provisions that preclude the provisions of paragraph one or two of this Article shall be null and void.

## **Direct teaching**

### **Article 49**

(1) If it is not intended to achieve direct or indirect economic advantage and the educational establishment is responsible for its use, it shall be free:

1. to communicate to the public, other than making available to the public, disclosed works for the purpose of illustration in direct teaching, including examinations;
2. to publicly perform disclosed works at school events with free admission on condition that the performers receive no payment for their performance;
3. to conduct secondary broadcasting of school radio and television shows.

(2) In cases referred to in the preceding paragraph, the source and authorship of the work shall be indicated if they are indicated on the work used.

## **Temporary reproduction**

### **Article 49a**

Temporary acts of reproduction which are transient or incidental and are an integral and essential part of a technological process and whose sole purpose is to enable a transmission in a network between third parties by an intermediary or a lawful use of a work, and which have no independent economic significance, shall be performed freely.

## **Communication to the public via terminals**

### **Article 49b**

Publicly accessible archives, libraries, museums and educational establishments shall be free to communicate to the public works from their collections by means of dedicated terminals on their premises for the purpose of research or private study unless otherwise provided by a contract on the transfer of economic rights.

## **Reproduction for private and other internal use**

### **Article 50**

(1) Subject to Article 37 of this Act, the reproduction of a disclosed work shall be free if made in no more than three copies and provided that the conditions referred to in paragraphs two or three are fulfilled.

(2) A natural person shall be free to reproduce works:

1. on paper or any similar medium by the use of photocopying or any other photographic technique having similar effects or
2. on any other medium if this is done for private use where the copies are not made available or communicated to the public and this is not done for direct or indirect economic advantage.

(3) Publicly accessible archives, libraries, museums, and educational or scientific establishments shall be free to reproduce, on any medium, works from their own copies for internal use, provided that this is not done for direct or indirect economic advantage.

(4) Reproduction under the preceding paragraphs of this Article shall not be permitted with respect to written works to the extent of the whole book, graphic editions of musical works, electronic databases and computer programs, and in the form of building of an architectural structure, unless otherwise provided by this Act or by contract.

(5) Notwithstanding the preceding paragraph, it shall be free, under the conditions referred to in paragraph one of this Article:

1. to reproduce a written work to the extent of the whole book where such a work has been out of print for a minimum of two years;
2. to reproduce a graphic edition of a musical work by means of handwritten transcription.

## **Free reproduction and making available to the public of orphan works**

### **Article 50a**

(1) Publicly accessible archives, libraries, museums, educational establishments, film or audio heritage institutions, and public-service broadcasting organisations may make available to the public orphan works provided that such use fulfils their public interest missions, in particular the preservation of, the restoration of, and the provision of cultural and educational access to their collections, including their digital collections, and may freely reproduce such works for the purposes of their digitisation, making available, indexing, cataloguing, preservation or restoration.

(2) Legal persons referred to in the preceding paragraph may generate revenues in the course of such uses, this for the exclusive purpose of covering their costs of reproducing orphan works and making them available to the public.

(3) Legal persons referred to in paragraph one of this Article may, by contract, assign another person to reproduce orphan works or make them available to the public.

(4) In the use of an orphan work, legal persons referred to in paragraph one of this Article shall indicate the author of the work and his legal successor if known.

## **Orphan works**

### **Article 50b**

(1) An orphan work referred to in paragraph one of the preceding Article shall be considered a work the authors of which have not been located or identified despite a diligent search for them having been carried out and, is protected by this Act, and which was published for the first time in a Member State or, in the absence of publication, was communicated for the first time to the public in a Member State or, in the absence of publication or communication to the public, was disclosed by a legal person referred to in paragraph one of the preceding Article with the consent of the author and it is reasonable to assume that the author would not oppose the use under paragraph one of the preceding Article.

(2) Orphan works under the preceding paragraph shall be regarded as including only:

- books, magazines, newspapers or other writings, audiovisual works and phonograms, and other works incorporated in, or constituting an integral part of, these works or phonograms contained in the collections of publicly accessible archives, libraries, museums, educational establishments or film or audio heritage institutions and
- audiovisual works and phonograms and other works incorporated in, or constituting an integral part of, these works and phonograms produced by public-service broadcasting organisations up to and including 31 December 2002 and commissioned by that date by such organisations for the exclusive exploitation by them or other co-producing public-service broadcasting organisations and contained in their archives.

(3) Where there is more than one author of a work referred to in the preceding paragraph and not all of them have been identified or located after a diligent search has been carried out, the work may be used in accordance with paragraph one of the preceding Article provided that the authors that have been identified and located have authorised such use.

## **Diligent search**

### **Article 50c**

(1) A diligent search shall be carried out in good faith in respect of each work referred to in the preceding Article prior to its use by consulting at least the sources set out in Annex, which is an integral part of this Act. If there is evidence to suggest that relevant information on the author is to be found in other countries, sources of information available in those other countries shall also be consulted.

(2) A diligent search shall be carried out in the Member State of first publication or, in the absence of publication, first communication to the public.

(3) In the case of an audiovisual work, the diligent search shall be carried out in the Member State in which the producer of the work has his registered office or permanent residence.

(4) In the case of a work which was not published or communicated to the public in a Member State but was disclosed by a legal person referred to in paragraph one of Article 50a of this Act with the consent of the author, the diligent search shall be carried out in the Member State in which that legal person is established.

(5) Legal persons referred to in paragraph one of Article 50a of this Act may assign another person to carry out a diligent search.

## **Records of diligent searches**

### **Article 50č**

(1) Legal persons referred to in paragraph one of Article 50a of this Act shall keep records of their diligent searches containing the following information:

- the accurate designation of the work which is considered an orphan work following the results of the diligent search;
- information on the use of the orphan work;
- any change of the orphan work's status under Article 50d of this Act; and
- documents showing that the diligent search was carried out in accordance with the preceding Article.

(2) Legal persons referred to in paragraph one of Article 50a of this Act shall send the information referred to in indents one, two and three of the preceding paragraph and their contact information to the ministry responsible for culture without delay using the designated application. Immediately after receiving such information, the ministry responsible for culture, using the designated application, shall forward the information to the online database of the office of the European Union responsible for intellectual property.

(3) No diligent search shall need to be carried out with respect to a work that is already recorded as an orphan work in the single publicly accessible online database of the office of the European Union responsible for intellectual property.

## **End of orphan work status and fair compensation**

### **Article 50d**

(1) If the author of a work that is considered as an orphan work under this Act has been located or identified, legal persons referred to in paragraph one of Article 50a of this Act shall stop using the work immediately after they learn of this.

(2) The author of an orphan work shall have the right to receive fair compensation for the use that has been made of his work and may seek such compensation from the legal person referred to in paragraph one of Article 50a of this Act which used his work.

(3) For the purposes of determining the level of fair compensation, due account shall be taken of the costs of the diligent search, the costs and revenues relating to making the orphan work available to the public, the costs of reproduction, and the costs of any harm to right-holders. Due account shall also be taken of the public interest in the field of culture as

defined by the law governing the exercising of the public interest in culture and of the mission of a particular public institute or public agency as defined in its instrument of incorporation.

(4) The method of calculation of fair compensation referred to in paragraph two of this Article and the method of payment of such fair compensation shall be determined by the Government of the Republic of Slovenia on the proposal of the minister responsible for culture.

## **Permitted use of out-of-commerce works**

### **Article 50e**

(1) Publicly accessible archives, libraries, museums, film or audio heritage institutions and public broadcasting organisations may, in so far as this is not intended to achieve direct or indirect economic advantage, make freely available to the public on a non-commercial website the out-of-commerce works which they hold permanently in their collections and reproduce them for that purpose, including databases which they may transform for that purpose.

(2) The use referred to in the preceding paragraph shall be permitted only if, under the Act governing the collective management of copyright and related rights, there is no representative collective management organisation for the collective management of rights in cases of the reproduction, distribution, communication to the public or making available to the public the works referred to in the preceding paragraph which is not for direct or indirect economic advantage.

(3) An author may at any time exclude the use of his work under paragraph one of this Article.

(4) In the cases referred to in paragraph one of this Article, the use of works excluded from legal transactions shall be deemed to take place exclusively in the Member State of the European Union in which the legal person referred to in paragraph one of this Article is established.

(5) In the cases referred to in paragraph one of this Article, the source and authorship of the work shall be indicated if they are indicated on the work used.

## **Out-of-commerce works**

### **Article 50f**

(1) An out-of-commerce work referred to in paragraph one of the preceding Article shall be deemed to be a work which, after reasonable efforts have been made to ascertain whether the work is available to the public commercially, is presumed in good faith not to be available to the public commercially through the ordinary channels of trade. An undisclosed work shall also be deemed to be an out-of-commerce work if its use does not interfere with the moral rights of the author.

(2) Collections of works shall not be deemed to be an out-of-commerce work referred to in the preceding paragraph if, after the verification referred to in the preceding paragraph, it is established that they consist essentially of:



1. works, other than audiovisual works, which have been disclosed for the first time or, if not disclosed, communicated for the first time to the public in a country which is not a Member State of the European Union;
2. audiovisual works whose film producers have their registered office or permanent residence in a country which is not a Member State of the European Union; or
3. works by nationals of countries which are not Member States of the European Union, where the country cannot be determined under the provisions of points 1 or 2 of this paragraph.

(3) Notwithstanding the provision of the preceding paragraph, collections of works referred to in the preceding paragraph shall be deemed to be an out-of-commerce work and shall be subject to the provisions of the Act governing the collective management of copyright and related rights, provided that the collective management organisation licensed for the collective management of rights in cases of the reproduction, distribution, communication to the public or making available to the public of those works which is not for direct or indirect economic advantage, is representative of authors from its own country, which is not a Member State of the European Union, under the Act governing the collective management of copyright and related rights.

## **Information**

### **Article 50g**

Legal persons referred to in paragraph one of Article 50e of this Act shall, at least six months before making available to the public an out-of-commerce work pursuant to paragraph one of Article 50e of this Act, provide the following information to the publicly accessible online portal of the office of the European Union responsible for intellectual property:

1. information necessary to identify the work which, after the verification referred to in the preceding Article, is deemed to be an out-of-commerce work;
2. information on the option available to the author under paragraph three of Article 50e of this Act;
3. information on the use of the out-of-commerce work.

## **Quotations**

### **Article 51**

(1) It shall be free to make quotations of parts of a disclosed work and of single disclosed works of photography, fine arts, architecture, applied art, industrial design and cartography provided this is necessary for the purposes of illustration, argumentation or referral.

(2) In cases referred to in the preceding paragraph, the source and authorship of the work shall be indicated if they are indicated on the work used.

## **Accessory works of secondary importance**

### **Article 52**

Such disclosed works that may be regarded as accessory works of secondary importance with regard to the actual purpose of some material object may be used freely in the exploitation of such an object.

## **Free transformations**

### **Article 53**

Transformation of a disclosed work shall be permissible:

1. if it is made for private or other internal purposes and is not intended for, or accessible to, the public;
2. if the work is transformed into a parody, pastiche or caricature, provided this does not, or is not likely to, create confusion as to the source of the work;
3. if the transformation is done in connection with a permitted use and is dictated by the purpose of such use;
4. if the transformation is done in connection with a permitted use and the author's objection to such transformation is in contravention of the principles of good faith and fairness.

## **Databases**

### **Article 53a**

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

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

## **Public exhibition or sale of artistic works**

### **Article 54**

(1) The organiser of a public exhibition or sale of artistic works shall be free to use such works to the extent necessary to promote the event provided that this is not done for direct or indirect economic advantage.

(2) In cases referred to in the preceding paragraph, the source and authorship of the work shall be indicated if they are indicated on the work used.

## **Works located in generally accessible premises**

### **Article 55**

(1) Works permanently placed in parks, streets, squares or other generally accessible premises shall be used freely.

(2) Works referred to in the preceding paragraph may not be reproduced in a three-dimensional form or used for the same purpose as the original work or used for economic advantage.

(3) In cases referred to in paragraph one of this Article, the source and authorship of the work shall be indicated if they are indicated on the work used.

## **Official procedures**

### **Article 56**

The use of works shall be free if this is necessary in certain special cases for the performance of tasks relating to public security or the performance of any official procedures, such as procedures in the National Assembly of the Republic of Slovenia or the National Council of the Republic of Slovenia, or judicial proceedings or administrative or arbitration procedures.

## **Testing of equipment**

### **Article 57**

Plants and shops that manufacture or sell phonograms or videograms, equipment for their reproduction or public communication, or equipment for reception of broadcasts may, in order to test their functioning at the time of manufacture or sale, freely reproduce and publicly communicate works provided this is done only to the extent necessary for the purpose of testing.

## **Text and data mining**

### **Article 57a**

(1) For the purposes of text and data mining, the reproduction of lawfully accessed works shall be free. Text and data mining shall mean any automated analytical technique aimed at analysing text and data in electronic form to generate information such as patterns, trends and correlations, including the digitisation of analogue content and remote access to such content where this is necessary for the purposes of text and data mining.

(2) Copies of works made under the conditions referred to in the preceding paragraph may be retained for as long as necessary for the purposes of text and data mining.

(3) The acts referred to in paragraph one of this Article shall not be permitted if the author has expressly and appropriately reserved the right to use the work, in particular by using internationally accepted standardised machine-readable means containing metadata and the terms and conditions of use in the case of a work which is publicly available online.

(4) An author may take appropriate measures to ensure the security and integrity of his networks and databases, but such measures may not be disproportionate and may not prevent the effective implementation of text and data mining as referred to in paragraph one of this Article. If the use of any security and protection measures prevents a person from carrying out acts permitted under this Article, the author shall provide that person with access

to and use of the works or other protected subject matter in accordance with this Article within a time limit not exceeding 72 hours.

(5) Any contractual stipulation contrary to this Article shall be null and void.

## **Text and data mining for scientific research**

### **Article 57b**

(1) Research organisations, publicly accessible archives, libraries, museums, film or audio heritage institutions and public broadcasting organisations, as well as persons belonging to research organisations and cultural heritage institutions, may freely reproduce works to which they have lawful access under the conditions laid down in this Article and shall carry out text and data mining operations referred to in paragraph one of the preceding Article on works to which they have lawful access for the purposes of scientific research under the conditions laid down in this Article, including the digitisation of analogue content and remote access to such content where this is necessary for the purposes of text and data mining.

(2) Universities, including their libraries, research organisations, public research organisations and other legal persons which, under the regulations governing scientific, research or educational activities, pursue, as their main objective, scientific research or educational activities, including scientific research on a non-profit-making basis or by reinvesting all profits in their scientific research, shall be deemed to be research organisations under this Article. A research organisation over which a legal person governed by private law exercises a decisive influence which provides it preferential access to research results shall not be deemed to be a research organisation under this Article.

(3) Copies of works made under the conditions referred to in paragraph one of this Article shall be kept in a secure environment and may be retained for as long as is necessary for the purposes of verifying the results of the research for which the text and data mining was carried out. In order not to unduly restrict use pursuant to paragraph one of this Article, storage in a secure environment should be provided with an appropriate level of security, which should be proportionate and limited to what is necessary for the secure storage of copies and the prevention of unauthorised use.

(4) An author may take appropriate measures to ensure the security and integrity of his networks and databases, but such measures may not be disproportionate and may not prevent the effective implementation of text and data mining as referred to in paragraph one of this Article. If the use of any security and protection measures prevents a person from carrying out acts permitted under this Article, the author shall provide that person with access to and use of the works in accordance with this Article within a time limit not exceeding 72 hours.

(5) The sharing and making available to the public of the results of the text and data mining referred to in paragraph one of this Article shall be permissible provided that the extent of the text and data mining is limited by the intended purpose, is compatible with fair practice, does not conflict with normal use of the work and does not unreasonably prejudice the legitimate interests of the author.

(6) Any contractual stipulation contrary to this Article shall be null and void.

## **Scientific research**

### **Article 57c**

(1) For the purpose of scientific research in the context of an individual or joint scientific research project or a review of the quality of a scientific research project, and not for direct or indirect economic advantage, persons engaged in the scientific research project shall be free to reproduce up to 15% of a disclosed work, distribute it and communicate it to the public, and third parties shall be free to do so for the purpose of a review of the quality of the scientific research project.

(2) Notwithstanding the preceding paragraph, up to 75% of a work may be reproduced for the purposes of the author's own scientific research.

(3) Notwithstanding paragraphs one and two of this Article, a photograph, illustration or very short work, such as a short article, may be used in its entirety.

(4) In the cases referred to in this Article, the source and authorship of the work shall be indicated if they are indicated on the work used

(5) Any contractual stipulation contrary to this Article shall be null and void.

### **Cultural heritage preservation**

#### **Article 57d**

(1) Publicly accessible archives, libraries, museums, film or audio heritage institutions and public broadcasting organisations may, for the purpose of preserving cultural heritage and in so far as necessary for such preservation, freely reproduce works which they have permanently in their collections.

(2) Any contractual stipulation contrary to the preceding paragraph shall be null and void.

### Section 5

#### LIMITATIONS ON THE DURATION OF COPYRIGHT

#### **Effect of expiry of terms**

#### **Article 58**

On the expiry of the terms of copyright protection laid down in this Section, the work shall cease to enjoy copyright protection.

#### **General provision**

#### **Article 59**

Copyright shall run for the life of the author and for 70 years after his death unless otherwise provided by this Act.

## **Co-authors**

### **Article 60**

(1) In the case of a work of joint authorship, the term referred to in the preceding Article shall be calculated from the death of the last surviving author.

(2) The term of protection in respect of musical compositions with words the lyrics and music of which were created in order to be used together shall expire 70 years following the death of the last surviving author of the music or author of the lyrics, whether or not these persons are designated as co-authors.

(3) The term of protection in respect of an audiovisual work shall expire 70 years following the death of the last surviving of the following co-authors: the author of the screenplay, the author of the dialogue, the principal director and the composer of the film music specifically created for use in that work.

## **Anonymous and pseudonymous works**

### **Article 61**

(1) Copyright in anonymous and pseudonymous works shall run for 70 years after the lawful disclosure of the work.

(2) When the pseudonym leaves no doubt as to the identity of the author, or if the author discloses his identity during the period referred to in the preceding paragraph, the term of protection laid down in Article 59 of this Act shall apply.

## **Collective works**

### **Article 62**

Copyright in collective works shall run for 70 years after the lawful disclosure of the work.

## **Special term for certain undisclosed works**

### **Article 63**

When the term of protection under this Act does not run from the death of the author or authors, and the work was not lawfully disclosed within 70 years of its creation, the copyright shall expire with the expiry of the aforementioned term.

## **Serial works**

## **Article 64**

When, under this Act, the term of protection is calculated from the day of lawful disclosure of the work, and the work is disclosed over a period of time in volumes, parts, sequels, issues or series, the term of protection shall be calculated for each of these components separately.

## **Collections**

### **Article 65**

(1) Insubstantial changes to the selection, adjustment or arrangement of the contents of a collection shall not extend the term of protection in that collection.

(2) Insubstantial changes referred to in the preceding paragraph shall be additions, deletions or alterations to the selection or arrangement of the contents of a collection which are necessary in order that the collection may continue to function in the manner intended by its author.

## **The right of withdrawal**

### **Article 66**

The right of withdrawal shall run for the lifetime of the author.

## **Running of terms**

### **Article 67**

The terms of protection laid down in this Section of the Act shall start to run from the first day of January of the year following the year in which the event which gives rise to them occurs.

## **Chapter Three**

### **LEGAL TRANSACTIONS INVOLVING COPYRIGHT**

#### **Section 1**

### **GENERAL PROVISIONS**

## **Transfer of copyright by inheritance**

### **Article 68**

Copyright as a whole, with the exception of the right to withdrawal, may be inherited.

### **Non-transferability of copyright as a whole**

#### **Article 69**

Copyright as a whole cannot be transferred.

### **Transfer of single rights of the author**

#### **Article 70**

(1) An author may not transfer his moral rights to other persons.

(2) An author may transfer to other persons single economic rights and other rights of the author, either by contract or by another legal transaction, unless otherwise provided by this Act.

### **Execution**

#### **Article 71**

(1) Copyright, unfinished works and undisclosed originals shall not be subject to execution.

(2) Only economic benefits deriving from copyright may be subject to execution.

### **Legal standing**

#### **Article 72**

(1) Rights recognised by this Act to the author, including the right to seek judicial protection, belong to another right-holder to the extent in which they are transferred to him by law or by legal transaction unless otherwise provided by this Act.

(2) Collective management organisations, trade union organisations and professional associations established for the protection of copyright and related rights shall also have standing to enforce protection of their members' rights before courts and other bodies. They shall render an account of all proceedings to the members concerned.

## **Section 2**

# **GENERAL PART OF COPYRIGHT CONTRACT LAW**

## **Scope of transfer**



### **Article 73**

A transfer of single economic rights or other single rights of the author may be limited in terms of content, territory or time.

### **Exclusive and non-exclusive transfer**

#### **Article 74**

(1) A non-exclusive transfer shall give the right-holder the right to exploit the work in the manner agreed concurrently with the author and other right-holders.

(2) An exclusive transfer shall give the right-holder the right to exploit the work in the manner agreed to the exclusion of the author and any other person.

(3) Non-exclusive transfer made prior to a subsequent exclusive transfer shall have effect with respect to the holder of the exclusive rights unless otherwise provided by the agreement between the author and the holder of the non-exclusive rights.

### **Presumptions as to the scope of transfer**

#### **Article 75**

(1) Unless otherwise provided by law or contract, it shall be presumed that rights are transferred non-exclusively, that the transfer is territorially limited to the Republic of Slovenia and that the transfer is limited in its duration to the term customary for the relevant category of works.

(2) If it is not specified which single rights are transferred, or to what extent a single right is transferred, it shall be presumed that only such rights, and only to such an extent, are transferred as is essential for the achievement of the purpose of the contract.

### **The rule of separate transfers**

#### **Article 76**

(1) A transfer of a single economic right or other single right of the author has no effect on the transfer of his other rights unless otherwise provided by this Act or by contract.

(2) A transfer of the right of reproduction of a work (Article 23) shall not include the transfer of the right to save it in electronic form, or the right to its sound or visual fixation, unless otherwise provided by law or contract.

(3) A transfer of the right of distribution of copies of a work (Article 24) shall not include the transfer of the right of importation of such copies unless otherwise provided by law or by contract.

(4) When the right of rental of phonograms or videograms containing a copyright work is transferred (Article 25), the author shall retain the right to equitable remuneration for each such rental. The author may not waive this right.

(5) Where the author transfers the right of rebroadcasting (Article 31), he shall have the right to equitable remuneration for each use of the work in the case of rebroadcasting. The author may not waive this right.

(6) Where the author transfers the rights of communication to the public in the context of an online content-sharing service (Article 163c), they shall have the right to receive equitable remuneration from the online content-sharing service provider for each use of the work in the case of communication to the public in the context of an online content-sharing service.

## **Presumptions of joint transfer**

### **Article 77**

(1) In the transfer of the right of reproduction of a work (Article 23), it shall be presumed that the right of distribution of copies of such a work (Article 24) has also been transferred, with the exception of the right of importation, unless otherwise provided by contract.

(2) In the transfer of the right of broadcasting (Article 30), it shall be presumed that the broadcasting organisation also acquired the right:

1. to make fixations of the work, on condition that the broadcasting organisation makes such fixations by means of its own facilities and for its own broadcasts, that it broadcasts them only once, and that it destroys such fixations no later than one month after the broadcast (ephemeral fixations) and
2. to deliver ephemeral fixations to a public archive if such fixations have exceptional documentary value. The broadcasting organisation shall immediately notify the author of this.

## **Subsequent transfers**

### **Article 78**

(1) A right-holder to whom an economic right or other author's right has been transferred may not further transfer this right to a third party without the consent of the author unless otherwise provided by contract.

(2) Consent referred to in the preceding paragraph shall not be required where the subsequent transfer of the right is effected in consequence of status changes, bankruptcy or ordinary liquidation of the right-holder.

(3) Where subsequent transfer is allowed without the author's consent either by law or by contract, the initial and subsequent right-holders shall be jointly liable to the author for his claims.

## **Nullity**

### **Article 79**

Any contractual stipulation shall be considered null and void if the author undertakes to transfer with it:

1. copyright in its entirety;
2. moral rights;
3. economic rights with respect to all his future works; or
4. economic rights with respect to yet unknown means of use of his work.

## **Formality**

### **Article 80**

(1) All transfers of economic rights or other author's rights and all authorisations shall be in writing unless otherwise provided by law.

(2) In the case of non-compliance with the preceding paragraph, any controversial or unclear stipulations shall be interpreted in favour of the author.

## **Royalties and remuneration**

### **Article 81**

(1) Where the author transfers economic rights or other rights of the author, the author shall be entitled to equitable and proportionate royalties or remuneration.

(2) Where royalties or remuneration have not been determined, they shall be calculated by taking into account the usual fees for a particular category of works, the scope and duration of use, and other circumstances of the case.

(3) Where the royalties or remuneration agreed in the contract is manifestly disproportionately low compared to any subsequent revenue derived from the use of the copyright work, taking into account all the circumstances of the case, the author or his representative, such as an organisation of authors of particular categories of copyright works, may request the other party or his successors in title to modify the contract in such a way so as to provide for additional, appropriate and fair remuneration.

(4) The provisions of the preceding paragraph shall not apply to joint agreements and contracts concluded by a collective management organisation or an independent management entity in accordance with the Act governing the collective management of copyright and related rights.

(5) The author may not waive the right referred to in paragraph three of this Article.

## **Revenue records and reporting**

### **Article 82**

(1) Where the royalties or remuneration have been agreed upon or determined in proportion to the revenues derived from the use of a work, the user of the work shall keep appropriate books or other records on the basis of which the amount of such revenues can be determined. The user of the work shall provide the author access to those books or records.

(2) The user of a work who has acquired, for consideration, from the author economic rights or other rights of the author shall keep appropriate books or other records in such a way so as to comply with the obligation to report to the author. The user of the work shall also keep the contact details of the persons who have acquired rights to use the work from the user by means of the further transfer of rights for consideration (surname, first name and address, or company name and registered office, telephone number, e-mail address).

(3) The user of a work shall, at least once a year, send the author, on request, an up-to-date, relevant and comprehensive report which, taking into account the specificities of each sector, shall include in particular:

1. all uses of the work;
2. all revenues derived from the use of the work, including revenues derived from the marketing of goods or services where the work is included;
3. the royalties or remuneration due to the author.

(4) Where the user of a work has acquired rights to use the work by virtue of the further transfer of rights for consideration, the author may request that the user provide the information referred to in the preceding paragraph if the author's first contracting party does not have this information. At the request of the author, his first contracting party shall send him the contact details of the persons who have acquired rights to use the work from the first contracting party by means of the further transfer of rights for consideration (surname, first name and address, or company name and registered office, telephone number, e-mail address).

(5) The reporting obligation referred to in paragraphs three and four of this Article shall relate to the period of actual use of the work for economic advantage.

(6) The provisions of paragraphs three and four of this Article shall not apply if the contribution of the author is not significant having regard to the overall work or has a minor impact on the overall work, unless the author proves that he needs the information to modify the contract pursuant to paragraph three of the preceding Article.

(7) Where the reporting obligation referred to in paragraph three or four of this Article is not proportionate to the revenue derived from the use of the work, the reporting obligation shall be limited to the types and level of information that can reasonably be expected in such cases.

(8) The provisions of the second sentence of paragraph two of this Article and of paragraphs three to seven of this Article shall not apply to joint agreements and contracts concluded by a collective management organisation or an independent management entity in accordance with the Act governing the collective management of copyright and related rights.

(9) Contractual stipulations that are contrary to the provisions of this Article to the detriment of the author shall be null and void.

### **Alternative dispute resolution**

#### **82.a**

(1) Authors and users may resolve a dispute through mediation or any other form of alternative dispute resolution, in particular with regard to the transfer of an economic right or other right of the author (paragraph two of Article 70), royalties and remuneration (Article 81), and revenue records and reporting (Article 82).

(2) The organisation of authors of particular categories of copyright works may, on the proposal of the author, initiate the procedures referred to in the preceding paragraph.

(3) Contractual stipulations that are contrary to the provisions of this Article to the detriment of the author shall be null and void.

## **Revocation of economic rights**

### **Article 83**

(1) An author may revoke a transferred economic right, in whole or in part, if its exclusive holder exploits this right to an insufficient extent or not at all and the author's legitimate interests are considerably affected thereby. The author may not revoke the right if the reasons for non-exploitation or insufficient exploitation originate mainly from his sphere or can reasonably be expected to be eliminated by the author.

(2) The revocation referred to in the preceding paragraph may not be effected before the expiry of two years from the time of transfer of the economic right to a work. In the case of contributions to daily newspapers, this time limit shall be three months, and in the case of other periodical publications, the time limit shall be one year.

(3) An author may exercise his right to revocation under this Article only after first giving the holder adequate additional time to comply with the demand for sufficient exploitation. After the expiry of that period, the author may revoke the exclusivity of the transfer of rights instead of revoking the economic right.

(4) With the exercising of the right of revocation, the economic right of the holder shall expire.

(5) The author may not waive the right of revocation under this Article.

(6) If equity so requires, the author shall pay appropriate compensation to the right-holder.

## **Authors' collective agreements**

### **Article 84**

Organisations of authors of individual categories of copyright works and the users of such works or their associations may in accordance with this Act:

1. lay down general rules for the use of copyright works;
2. conclude tariff agreements.

### Section 3

## SPECIAL PART OF COPYRIGHT CONTRACT LAW

### Subsection 1

## **PUBLISHING CONTRACT**

### **Definition**

#### **Article 85**

(1) By a publishing contract, the author shall undertake to transfer to the publisher the right of reproduction of his work in the form of printing and the right to distribute the copies of the work, while the publisher shall undertake to pay the agreed royalties to the author and to reproduce and distribute the work.

(2) The publishing contract with respect to a certain work may also include an agreement on a club edition, a pocket-book edition, a periodical edition in instalments, the transfer of the right of translation, etc.

### **Rights of an agent**

#### **Article 86**

An author's agent may conclude a publishing contract only for such works as are expressly mentioned in his power of attorney.

### **Contents of the publishing contract**

#### **Article 87**

(1) The publishing contract shall specify, in particular, the type of transfer of rights, the scope and duration of the transfer of rights, territorial limitations of rights, the time limit for the publication of the work, and the amount of royalties to be paid to the author.

(2) If the royalties are fixed as a percentage of the retail price of the copies of the work sold, the publishing contract shall specify the minimum number of copies of the first edition. Such a provision shall not be necessary if the contract specifies the minimum royalties which the publisher is obliged to pay to the author regardless of the actual number of copies sold.

(3) If the royalties are set as a lump sum, the publishing contract shall specify the total number of copies to be printed. If this number is not specified, and unless otherwise indicated by the purpose of the contract, standard terms or general usage, the publisher may reproduce and distribute a maximum of 500 copies of the work.

### **Presumption of exclusivity of transfer**

#### **Article 88**

(1) During the period of validity of the publishing contract, the author may not transfer the right of reproduction or the right of distribution of the work in the same language to a third party unless otherwise provided by contract.

(2) The author may transfer the right of reproduction or distribution of newspaper articles simultaneously to several users unless otherwise provided by contract.

### **Publisher's priority right**

#### **Article 89**

(1) The publisher who has acquired the right to publish a work in book form shall have, in relation to other publishers offering the same conditions, the priority right to publish the work in electronic form.

(2) The priority right under the preceding paragraph shall run for a period of three years from the agreed date of publication of the literary work. The publisher shall give a written statement of the author's written offer within 30 days of its receipt.

### **Improvements of the work**

#### **Article 90**

Unless otherwise provided by the publishing contract, for new editions of the work, the publisher shall be obliged to allow the author to make improvements or other alterations to his work, provided this does not involve any excessive costs for the publisher and does not alter the character of the work.

### **Destruction of the work by force majeure**

#### **Article 91**

(1) If the work is destroyed by force majeure after its delivery to the publisher, the author shall be entitled to the royalties that would have been due to him if the work had been published.

(2) If the entire prepared edition is destroyed by force majeure before it is put into circulation, the publisher shall be entitled to prepare a new edition, and the author shall have the right to royalties only for the destroyed edition.

(3) If a part of a prepared edition is destroyed by force majeure before it is put into circulation, the publisher shall be entitled to reproduce without paying royalties to the author only such a number of copies as have been destroyed.

### **Termination of the contract**

#### **Article 92**

- (1) The publishing contract shall terminate:
1. if the author dies before the completion of the work;
  2. if the copies of all agreed editions have sold out;
  3. if the term of validity of the contract has expired;

4. in other cases provided by law or contract.

(2) The author may withdraw from the publishing contract if the publisher, after an edition has sold out, does not proceed to publish a new agreed edition within three years of the date when the author requested it, unless otherwise provided by contract.

(3) An edition shall be considered sold out under the preceding paragraphs if the number of unsold copies is less than 5% of the total edition and in any case if the number is less than 100 copies.

(4) If the publisher does not publish the work within the agreed time limit, the author may withdraw from the contract and claim damages; in addition, he may keep the royalties received or demand payment of the agreed royalties.

(5) If the time limit for the publication of the work is not stipulated in the contract, the publisher shall be obliged to publish the work within a reasonable period of time, but not later than one year from the date of delivery of the work.

### **Exception to the formality requirement**

#### **Article 93**

The provisions of this Act requiring contracts for a copyright work to be made in writing shall not apply to contracts for the publication of articles, drawings or notes in newspapers, magazines or other periodicals.

### **Destruction of copies**

#### **Article 94**

(1) If the publisher intends to sell the unsold copies of the work for pulping within three years of the agreed publication date of the work, unless a longer period is stipulated in the publishing contract, they shall be obliged to first offer them to the author at the price they would obtain if copies were sold for pulping.

(2) If the author does not purchase the offered copies or purchases only some of them, the publisher may sell the remaining copies for pulping.

#### Subsection 2

### **PERFORMANCE CONTRACT**

#### **Definition**

#### **Article 95**



By a performance contract, an author shall undertake to transfer to the user the right of public recitation, public performance or public staging of his work, while the user shall undertake to pay to the author the agreed royalties and to recite, perform or stage the work.

### **Contents of the performance contract**

#### **Article 96**

The performance contract shall specify, in particular, the type of transfer of rights, the scope and duration of the transfer of rights, territorial limitations of rights, the time limit for the performance of the work, and the amount of royalties to be paid to the author.

### **Obligations of the user**

#### **Article 97**

The user shall be obliged to allow the author to inspect the performance of the work, to ensure adequate technical conditions under which the work can be performed, and to send to the author the playbill, other printed materials and public reviews of the performance, unless otherwise provided by contract.

### **Withdrawal from the contract**

#### **Article 98**

If the user does not perform the work within the agreed time limit, the author may withdraw from the contract and claim damages; in addition, he may keep any royalties received or demand payment of the agreed royalties.

### **Subsection 3**

## **CONTRACT TO COMMISSION A COPYRIGHT WORK**

### **Commissioned copyright work**

#### **Article 99**

(1) By a contract to commission a work, an author shall undertake to create a certain work and deliver it to the person commissioning it, who shall undertake to pay a remuneration to the author.

(2) The person commissioning the work may supervise the process and give instructions, provided that he does not interfere with the author's freedom of scientific and artistic expression.

(3) The author shall retain the copyright to the commissioned work, with the exception of the right of distribution, unless otherwise provided by this Act or by contract.

(4) The contract to commission a work shall be subject to provisions relating to contracts for work unless otherwise provided by this Act.

## **Collective copyright work**

### **Article 100**

(1) A collective copyright work shall be a work which is created by the collaboration of a large number of co-authors on the initiative and under the organisation of a natural or legal person commissioning the work and which is published and used under the name of the natural or legal person commissioning it (e.g. encyclopaedias and anthologies).

(2) A special contract shall be concluded for the purpose of creating a collective work. If the conditions referred to in the preceding paragraph are not met, such a contract shall be null and void.

(3) It shall be deemed that the economic rights and other rights of the authors to a collective work are exclusively and without limitations transferred to the person commissioning the work, unless otherwise provided by contract.

## Subsection 4

## EMPLOYMENT RELATIONSHIP

### **Copyright work created in the course of employment**

#### **Article 101**

(1) When a copyright work is created by an employee in the execution of his duties or following instructions given by his employer (a copyright work created in the course of employment), it shall be deemed that the economic rights and other rights of the author to such work are exclusively transferred to the employer for a period of ten years from the completion of the work, unless otherwise provided by contract.

(2) After the expiry of the period referred to in the preceding paragraph, the rights referred to in the preceding paragraph shall revert to the employee; however, the employer may claim a new exclusive transfer of these rights for equitable remuneration.

### **Special rights**

#### **Article 102**

Notwithstanding the provisions of the preceding Article,

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

2. it shall be deemed that economic rights and other rights of the author to a database and in a collective work are transferred exclusively and without limitations to the employer, unless otherwise provided by contract.

## Chapter Four

### **SPECIAL PROVISIONS ON COPYRIGHT WORKS**

#### Section 1

#### AUDIOVISUAL WORKS

#### **Definition**

#### **Article 103**

Audiovisual works under this Act shall be cinematographic films, television films, animated films, short music videos, advertising films, documentaries and other audiovisual works, expressed by means of a sequence of related moving images, with or without sound, regardless of the medium in which said works are embodied.

#### **The right of audiovisual adaptation**

#### **Article 104**

(1) The right of audiovisual adaptation shall be the exclusive right to transform or include a pre-existing work in an audiovisual work.

(2) It shall be deemed that, by concluding a contract for audiovisual adaptation, the author of a pre-existing work transferred to the film producer, exclusively and without limitations, the right of transformation and inclusion of the pre-existing work in an audiovisual work and his economic rights and other rights of the author to this audiovisual work, its translations, its audiovisual transformations and photographs made in connection with the production of the audiovisual work, unless otherwise provided by contract.

(3) Notwithstanding the provisions of the preceding paragraph, the author of a pre-existing work shall have:

1. the exclusive right to further transformation of the audiovisual work into another artistic form;
2. the exclusive right to a new audiovisual adaptation of the pre-existing work, but only after the expiry of ten years from the conclusion of the contract referred to in the preceding paragraph;
3. the right to claim equitable remuneration from the film producer for each rental of videograms of an audiovisual work.
4. the right to equitable remuneration for each rebroadcasting of the audiovisual work;
5. the right to receive equitable remuneration from the online content-sharing service provider for each communication to the public of the audiovisual work in the context of an online content-sharing service;

6. the right to equitable remuneration for each communication to the public of the audiovisual work in the context of video-on-demand services;
7. the right to equitable remuneration for each act of making the audiovisual work available to the public for direct or indirect economic advantage other than that referred to in points 5 and 6 of this paragraph.

(4) The author of a pre-existing work may not waive the rights referred to in the preceding paragraph.

### **Co-authors of an audiovisual work**

#### **Article 105**

(1) The following shall be considered as co-authors of an audiovisual work:

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 a co-author of that work.

### **Authors of contributions to an audiovisual work**

#### **Article 106**

An animator or a composer of film music who is not considered a co-author of an audiovisual work under the preceding Article, a scenographer, a costume designer, a make-up artist, and an editor shall all have authors' rights with respect to their respective contributions to the audiovisual work (authors of contributions).

### **Film production contract**

#### **Article 107**

(1) The relationships between the film producer and the authors of an audiovisual work and authors of contributions, as well as the relationships between the authors themselves, shall be regulated by a film production contract, which shall be made in writing in accordance with this Act.

(2) It shall be deemed that, by concluding a film production contract, co-authors have transferred to the film producer, exclusively and without limitations, all their economic rights and other rights of the author to an audiovisual work, its translation, its audiovisual transformations and photographs made in connection with this work, unless otherwise provided by contract.

(3) It shall be deemed that, by concluding a film production contract, authors of contributions have transferred to the film producer, exclusively and without limitations, the right to use their contributions for the purpose of completion of the audiovisual work.

(4) Notwithstanding the provisions of the preceding paragraphs:

1. the co-authors shall have the exclusive right to further transformation of an audiovisual work into another artistic form;
2. the authors of contributions shall have the right to use separately their contributions to an audiovisual work, unless the rights of the film producer are prejudiced thereby;
3. the co-authors shall have the right to equitable remuneration from the film producer for each rental of videograms of an audiovisual work;
4. the co-authors shall have the right to equitable remuneration for each rebroadcasting of an audiovisual work;
5. the co-authors shall have the right to receive equitable remuneration from the online content-sharing service provider for each communication to the public of the audiovisual work in the context of an online content-sharing service;
6. the co-authors shall have the right to equitable remuneration for each communication to the public of the audiovisual work in the context of video-on-demand services;
7. the co-authors shall have the right to receive equitable remuneration for each act of making the audiovisual work available to the public for direct or indirect economic advantage other than that referred to points 5 and 6 of this paragraph.

(5) Co-authors and authors of contributions may not waive the rights referred to in the preceding paragraph.

## **Royalties**

### **Article 108**

(1) Co-authors of an audiovisual work shall be entitled to royalties separately for each transferred economic right or other right of the author.

(2) Having regard to Article 82 of this Act, a film producer shall report to the co-authors of an audiovisual work separately for each authorised form of use of the work.

## **Completion of an audiovisual work**

### **Article 109**

(1) An audiovisual work shall be deemed to be completed when, in accordance with the agreement between the principal director and the film producer, the first standard copy of the work which is the subject matter of the contract is completed.

(2) The master of the first standard copy referred to in the preceding paragraph may not be destroyed.

(3) Any changes to the copy of the audiovisual work referred to in paragraph one of this Article may be made only with the prior consent of the principal director and the film producer.

(4) If any of the co-authors or authors of contributions refuses to complete his contribution to the audiovisual work or if he is unable to do so owing to force majeure, he may

not object to the use of the contribution he has already made for the purpose of completion of such work. Such an author shall have respective rights to the contribution he has already made.

## **Withdrawal from the contract**

### **Article 110**

(1) If a film producer does not complete the audiovisual work within five years of the conclusion of the film production contract, or if he does not distribute the completed audiovisual work within one year of its completion, the co-authors may withdraw from the contract, unless a different time limit has been agreed.

(2) In the case referred to in the preceding paragraph, co-authors and authors of contributions retain the right to payment of royalties.

## Section 2

### COMPUTER PROGRAMS

#### **Definition**

### **Article 111**

(1) Computer programs under this Act shall be programs expressed in any form, including preparatory design materials for their creation.

(2) Ideas and principles which underlie an element of a computer program, including those which underlie its interfaces, shall not be protected.

(3) Computer programs shall be protected if they are individual works in the sense that they are their author's own intellectual creations.

## **Employment and the contract to commission a copyright work**

### **Article 112**

Where a computer program is created by an employee in the execution of his duties or following instructions given by his employer, or where it is created by an author under a contract to commission a copyright work, it shall be deemed that the economic rights and other rights of the author to such a program are transferred to the employer or person commissioning the work, exclusively and without limitations, unless otherwise provided by contract.

## **Rights of the author**

### **Article 113**

(1) Unless otherwise provided in Articles 114 and 115 of this Act, the author of a computer program shall have the exclusive right, in particular:

1. to make permanent or temporary reproductions of a computer program by any means and in any form, this in part or in whole. Insofar as loading, displaying, running, transmission or storage of the computer program necessitate its reproduction, the author's permission shall be necessary for such acts;
2. to make translations, adaptations, arrangements and any other alterations of a computer program and the reproduction of the results thereof, this without prejudice to the rights of the person who alters the program;
3. to distribute the original of the computer program or copies thereof in any form, including its rental.

(2) The author may also transfer the rights referred to in the preceding paragraph to third parties with a licence agreement.

### **Limitations to the author's rights**

#### **Article 114**

(1) Unless otherwise provided by contract, the acts referred to in points 1 and 2 of the preceding Article, including error corrections, may be done by the lawful acquirer of the computer program without the authorisation of the author if this is necessary for the use of the computer program in accordance with its intended purpose.

(2) A lawful user of a computer program may, without the authorisation of the author, make a maximum of two back-up copies of the program if this is necessary for its use.

(3) A lawful user of a copy of a computer program may, without the authorisation of the author, observe, study or test the functioning of the program in order to determine the ideas and principles that underlie any element of the program if he does so while performing any of the acts of loading, displaying, running, transmitting or storing the program which he is entitled to do.

(4) A lawful user of a copy of a computer program may:

1. in the case of using the computer program for illustration in distance or cross-border teaching by electronic means, provided that the conditions referred to in Article 47b of this Act are fulfilled, perform the acts referred to in paragraph one of the preceding Article, where the distribution is limited to electronic form;
2. in the case of an out-of-commerce work, provided that the conditions referred to in Article 50e, 50f and 50g of this Act are fulfilled, perform the acts referred to in paragraph one of the preceding Article;
3. in the case of text and data mining, provided that the conditions referred to in Article 57a of this Act are fulfilled, perform the acts referred to in points 1 and 2 of paragraph one of the preceding Article;
4. in the case of cultural heritage preservation, provided that the conditions referred to in Article 57d of this Act are fulfilled, perform the acts referred to in point 1 of paragraph one of the preceding Article.

(5) The provisions of this Act on the right of withdrawal (Article 20), the right to remuneration, persons liable and reproduction for private and other internal use (Articles 37, 38 and 50, respectively), the right of the author to equitable remuneration for rebroadcasting (paragraph five of Article 76), the right to equitable remuneration for communication to the public in the context of an online content-sharing service (paragraph six of Article 76), royalties

and remuneration (Article 81), revenue records and reporting (Article 82), alternative dispute resolution (Article 82a) and revocation of economic rights (Article 83) shall not apply to computer programs. Computer programs may not be lent publicly (Article 36) unless otherwise provided by a contract with the author.

(6) Contractual stipulations that are contrary to paragraphs two and three of this Article shall be null and void.

## **Decompilation**

### **Article 115**

(1) Reproduction of the code or translation of the code of a computer program within the meaning of points 1 and 2 of Article 113 of this Act shall not require the authorisation of the author where such reproduction or translation is indispensable for obtaining the information necessary to achieve the interoperability of an independently created computer program with other programs, or with hardware, provided that the following conditions are met:

1. that these acts are performed by the licensee or by another lawful user or on their behalf by a person authorised to do so;
2. that the information necessary to achieve interoperability has not been previously readily available to the persons referred to in the preceding point; and
3. that these acts are confined only to those parts of the pre-existing program which are necessary to achieve interoperability.

(2) The information obtained through the application of the preceding paragraph may not be:

1. used for goals other than to achieve the interoperability of the independently created computer program;
2. given to third parties, except when necessary for the interoperability of the independently created computer program; or
3. used for the development, production or marketing of another computer program substantially similar in its expression or for any other act that infringes copyright.

(3) The provisions of this Article may not be interpreted in such a way as to allow its application to be used in a manner that unreasonably prejudices legitimate interests of the author or conflicts with any normal use of the computer program.

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

## **Special measures of protection**

### **Article 116**

The following acts of a person shall be considered as infringements of copyright in a computer program:

1. any distribution of a copy of a computer program in the knowledge or having reason to believe that it is an infringing copy or
2. the possession, for commercial purposes, of a copy of a computer program in the knowledge or having reason to believe that it is an infringing copy.

## **Application of other legal provisions**



## **Article 117**

The provisions of this Section shall be without prejudice to any other legal provisions on computer programs, such as those concerning patents, trademarks, protection of competition, trade secrets, protection of semi-conductor products or contractual obligations.

### Chapter Five

## **RELATED RIGHTS**

### Section 1

## **RIGHTS OF PERFORMERS**

### **Definition**

#### **Article 118**

(1) "Performers" shall mean actors, singers, musicians, dancers and other persons who act, sing, deliver, recite, play in, interpret or otherwise perform copyright works or expressions of folklore.

(2) Directors of theatrical presentations, conductors of orchestras, choir directors, sound editors, and variety and circus artists shall also be deemed to be performers under the preceding paragraph.

### **Representative of a group of performers**

#### **Article 119**

(1) Performers who collectively take part in a performance, such as members of an orchestra, choir, dancing troupe, theatrical group or other similar ensemble, shall authorise one of their members to be their representative responsible for the granting of authorisations necessary for the performance.

(2) To take effect, such authorisation shall be in writing and shall require the majority consent of all members of the ensemble.

(3) The provisions of the two preceding paragraphs shall not apply to conductors, soloists or directors of theatrical performances.

### **Moral rights of performers**

#### **Article 120**

(1) The exclusive right of performers to have their name or other designation indicated in connection with the performance shall be enjoyed:

1. where the performances are given by solo performers – by such performers;
2. where performances are given by ensembles of performers – by the ensemble as a whole, by the artistic director and by the soloists.

(2) Performers shall have the exclusive right to object to any distortion or other modification of their performance or any use of their performance if such modification or use could be prejudicial to their person.

## **Economic rights of performers**

### **Article 121**

Performers shall have the exclusive right:

1. to fix their live performance;
2. to reproduce the phonograms or videograms containing their performance;
3. to publicly transmit their live performance;
4. to broadcast their live performance;
5. to make available to the public the phonograms or videograms containing their performance;
6. to distribute the phonograms or videograms containing their performance;
7. to rent out phonograms or videograms containing their performance.

## **The right to remuneration for communicating to the public a phonogram and videogram**

### **Article 122**

(1) A performer shall have the right to a share of the remuneration received by the phonogram producer for communicating to the public a phonogram in which his performance is fixed.

(2) A performer shall have the right to equitable remuneration for each broadcasting or any other communication to the public of a videogram of his performance. The remuneration shall be paid by the user to the performer.

(2) The performer may not waive the right under this Article.

## **Termination of the contract on transfer of rights**

### **Article 122a**

(1) If a performer requests termination of the contract by which he transferred economic rights under Article 83 of this Act because the phonogram producer, within 50 years of the phonogram being lawfully published or, in the absence of such publication, within 50 years of it being lawfully communicated to the public, has not offered copies of the phonogram for sale in sufficient quantity or has not made it available to the public, by wire or wireless means, in such a way that members of the public may access it from a place and at a time

individually chosen by them, the additional period of time referred to in paragraph three of Article 83 of this Act shall be one year.

(2) If the phonogram producer, within the time limit referred to in the preceding paragraph, fails to carry out both of the acts of exploitation referred to therein, the performer may exercise the right to terminate the contract on transfer of economic rights.

## **Annual supplementary remuneration**

### **Article 122b**

(1) Where a contract on transfer of economic rights gives the performer the right to claim a non-recurring remuneration, the performer shall have the right to obtain an annual supplementary remuneration from the phonogram producer for each full year immediately following the 50th year after the phonogram was lawfully published or, in the absence of such publication, the 50th year after it was lawfully communicated to the public. The performer may not waive the right to such remuneration.

(2) The total amount to be set aside by a phonogram producer for payment of the annual supplementary remuneration referred to in the preceding paragraph shall correspond to 20 % of the revenue which the phonogram producer has derived during the year preceding that for which said remuneration is paid from the reproduction, distribution and making available of the phonogram in question following the 50th year after it was lawfully published or, in the absence of such publication, the 50th year after it was lawfully communicated to the public.

(3) Phonogram producers shall be required on request to provide to performers who are entitled to the annual supplementary remuneration referred to in paragraph one of this Article any information which may be necessary in order to secure payment of that remuneration.

## **Recurring remuneration**

### **Article 122c**

Where a performer is entitled to recurring payments of remuneration in accordance with the contract on transfer of economic rights, neither advance payments nor any contractually defined deductions shall be deducted from the payments made to the performer following the 50th year after the phonogram was lawfully published or, in the absence of such publication, the 50th year after it was lawfully communicated to the public.

## **The right to remuneration**

### **Article 123**

(1) A performer shall have the right to remuneration for the reproduction for private or other internal use under paragraph two of Article 37 of this Act.

(2) Where the performer has transferred to the phonogram producer or film producer the right to rent out phonograms or videograms containing his performance, the phonogram producer or film producer shall pay the performer fair compensation for such.

### **Presumption of transfer**

#### **Article 124**

(1) By entering into a contract for film production, a performer shall be presumed to have transferred to the film producer, exclusively and without limitations, all economic rights in his performance unless otherwise provided by contract.

(2) For each economic right which was transferred under the preceding paragraph, the performer shall have the right to demand equitable remuneration from the film producer.

(3) The performer may not waive the right referred to in the preceding paragraph.

### **Completion of an audiovisual work**

#### **Article 125**

When any of the performers involved refuses to complete his contribution to an audiovisual work or if he is unable to do so owing to force majeure, he may not object to the use of the contribution he has already made for the purpose of completion of such work. Such a performer shall have respective rights as to the contribution he has already made.

### **Performance given in the course of employment**

#### **Article 126**

Where a performance is given by an employee in the execution of his duties or following instructions given by his employer (performance in the course of employment), the relationships with respect to such performance shall be governed by a collective agreement or other contract.

### **Duration of rights**

#### **Article 127**

The rights of a performer shall expire 50 years after the date of the performance. If a fixation of the performance otherwise than on a phonogram is lawfully published or lawfully communicated to the public within this period, the rights of the performer shall expire 50 years from the date of the first such publication or the first such communication to the public, whichever is the earlier. If a fixation of the performance on a phonogram is lawfully published or lawfully communicated to the public within this period, the rights shall expire 70 years from the date of the first such publication or the first such communication to the public, whichever is the earlier.

## Section 2

### RIGHTS OF PRODUCERS OF PHONOGRAMS

#### **Producers of phonograms**

##### **Article 128**

(1) "Producer of a phonogram" shall mean a natural person who, or a legal person 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" shall mean 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" shall mean the embodiment of sounds or of representations thereof on a medium from which they can be perceived, reproduced or communicated via a device.

#### **Rights of producers of phonograms**

##### **Article 129**

Producers of phonograms shall have the exclusive right:

1. to reproduce their phonograms;
2. to transform their phonograms;
3. to distribute their phonograms;
4. to rent out their phonograms;
5. to make their phonograms available to the public.

#### **The right to remuneration for communicating to the public a phonogram**

##### **Article 130**

(1) If a phonogram published for commercial purposes or a copy thereof is used for broadcasting or for any other communication to the public, the user shall pay to the producer of phonograms equitable remuneration for each instance of such communication.

(2) The producer of phonograms shall pay half the remuneration referred to in the preceding paragraph to the performers whose performances are fixed on the phonogram used, unless different shares are stipulated by the contract between the producers of phonograms and the performers.

(3) For the purposes of this Article, phonograms made available to the public 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 phonograms published for commercial purposes.

#### **The right to remuneration**

## **Article 131**

A producer of phonograms shall have the right to remuneration for the reproduction for private or other internal use under paragraph two of Article 37 of this Act.

## **Duration of rights**

## **Article 132**

The rights of producers of phonograms shall expire 50 years after the fixation is made. If the phonogram is lawfully published within this period, the rights shall expire 70 years from the date of the first such publication. If no such publication has taken place and if the phonogram has been lawfully communicated to the public within this period, said rights shall expire 70 years from the date of the first such communication to the public.

## **Section 3**

## **RIGHTS OF FILM PRODUCERS**

### **Film producers**

## **Article 133**

(1) "Film producer" shall mean a natural person who or a legal person which, in their own name and for their own account or for somebody else's account, organises and manages the production of an audiovisual work or of a sequence of moving images and has the responsibility for its completion.

(2) "Videogram" shall mean the first recording of an audiovisual work or a sequence of moving images, with or without sound, or a substitute therefor, from which they can be perceived, reproduced or communicated via a device.

### **Rights of film producers**

## **Article 134**

Film producers shall have the exclusive right:

1. to reproduce their videograms;
2. to distribute their videograms;
3. to rent out their videograms;
4. to present their videograms to the public;
5. to make their videograms available to the public.

### **The right to remuneration for communicating to the public a videogram**

## **Article 134a**

A film producer shall have the right to equitable remuneration for each instance of broadcasting or any other communication to the public of a videogram.

### **The right to remuneration**

#### **Article 135**

A film producer shall have the right to remuneration for the reproduction for private or other internal use under paragraph two of Article 37 of this Act.

### **Duration of rights**

#### **Article 136**

The rights of a film producer shall expire 50 years after the fixation is made. If a videogram is lawfully published or lawfully communicated to the public within this period, the rights of the film producer shall expire 50 years from the date of the first such publication or the first such communication to the public, whichever is the earlier.

### **Section 4**

## **RIGHTS OF BROADCASTING ORGANISATIONS**

### **Rights of broadcasting organisations**

#### **Article 137**

Broadcasting organisations shall have the exclusive right:

1. to rebroadcast their broadcasts;
2. of secondary broadcasting of their broadcasts if such communication is made in places accessible to the public on payment of an admission fee;
3. to fix their broadcasts;
4. to reproduce the fixations of their broadcasts;
5. to distribute the fixations of their broadcasts;
6. to make their broadcasts available to the public.

### **Duration of rights**

#### **Article 138**

The rights of broadcasting organisations shall expire 50 years after the first transmission of a broadcast.

### **Section 5**

## RIGHTS OF PUBLISHERS

### **The right to remuneration**

#### **Article 139**

(1) Publishers shall have the right to a share of the remuneration for reproduction for private or other internal use under paragraph three of Article 37 of this Act where the authors have transferred their rights to them.

(2) The right referred in the preceding paragraph shall expire 50 years from the date of the lawful publication of the work.

### **Press publications**

#### **Article 139a**

(1) The publisher of a press publication established in the European Union shall, for the use of a press publication in the context of the services of an information society service provider as regulated by the Act governing electronic commerce market, have the exclusive right to:

1. reproduce its press publication;
2. make its press publication available to the public.

(2) A press publication under this Act shall be deemed to be a collection composed mainly of literary works of a journalistic nature, which may also include other copyright works or subject matter of related rights and which:

1. constitutes an individual item within a periodical or regularly updated publication under a single title, such as a newspaper or a general or special interest magazine;
2. has the purpose of providing the general public with information related to news or other topics; and
3. is published in any media under the initiative, editorial responsibility and control of a service provider.

(3) Periodicals that are published for scientific or academic purposes, such as scientific journals, shall not be deemed to be press publications referred to in the preceding paragraph

The rights referred to in paragraph one of this Article shall not apply to:

1. private or non-commercial uses of press publications by individual users;
2. acts of hyperlinking;
3. the use of individual words or very short extracts of a press publication.

(5) The rights referred to in paragraph one of this Article shall be without prejudice to the rights of authors and the rights of holders of related rights with respect to the works and the subject matter of the related rights incorporated in the press publication. The publisher of a press publication may not enforce the rights referred to in paragraph one of this Article:

1. against the author of the copyright work that is incorporated in the press publication or the holder of a related right whose subject matter is incorporated in the press publication, and may not prevent the author or the holder of a related right from using the same copyright work or the same subject matter independently of the publisher's press publication in which it is incorporated;



2. against another user who, on the basis of a non-exclusive transfer, has acquired rights to use the same work or subject matter of a related right which is incorporated in the publisher's media publication on the basis of the non-exclusive transfer;
3. by prohibiting the use of a work or subject matter of a related right incorporated in its press publication if that work or the subject matter of a related right is no longer protected under the provisions of this Act.

(6) The rights referred to in paragraph one of this Article shall run for two years from the first lawful publication of the press publication. This term shall begin on 1 January of the year following the date of publication of the press publication.

(7) The author shall have the right to an appropriate share of the revenues that the publisher of the press publication in which the author's copyright work is incorporated receives from the information society service provider under paragraph one of this Article. The author may not waive this right.

## **Unpublished works in the public domain**

### **Article 140**

(1) A person who for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work in which copyright has expired shall benefit from protection equivalent to the economic rights of the author and other rights of the author under this Act.

(2) The rights referred to in the preceding paragraph shall expire 25 years from the date of the first lawful publication or communication to the public of the work.

## **Critical and scientific publications of works in the public domain**

### **Article 141**

(1) A person who prepares a publication of a work in which copyright has expired and which is the result of scientific work, with such publication being significantly different from previously known publications of such work, shall benefit from protection equivalent to the economic rights of the author and other rights of the author under this Act.

(2) The rights referred to in the preceding paragraph shall expire 30 years from the date of the first lawful publication of the work.

## Section 6

## RIGHTS OF MAKERS OF DATABASES

### **Databases**

### **Article 141a**

(1) "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 and requiring a qualitatively or quantitatively substantial investment in either the obtaining, the verification or the presentation of its contents.

(2) The protection of a database or its contents under this Section shall apply regardless of their protection by copyright or by other rights. The inclusion of material into a database and its use shall be without prejudice to rights existing in respect of that material.

## **Scope of protection**

### **Article 141b**

(1) Protection under this Section shall apply to:

1. the whole contents of a database;
2. any qualitatively or quantitatively substantial part of the contents of a database;
3. the repeated and systematic use of qualitatively or quantitatively insubstantial parts of the contents of a database which conflicts with normal exploitation of that database or unreasonably prejudices 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 makers of databases**

### **Article 141c**

Makers of databases shall have the exclusive right:

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

## **Rights and obligations of lawful users**

### **Article 141d**

(1) A lawful user of a disclosed database or a copy thereof shall be free to use qualitatively or quantitatively insubstantial parts of its contents for any purposes whatsoever. Where the user is authorised to use only a part of the database, the provision of 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 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 stipulation contrary to this Article shall be null and void.

## **Employment and contracts for work**

### **Article 141e**

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

## **Duration of rights**

### **Article 141f**

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

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

## **Limitations to the rights of a maker of databases**

### **Article 141g**

(1) Lawful users of a published database may use a substantial part of its contents:

1. for the purposes of illustration in distance or cross-border teaching by electronic means, provided that the conditions referred to in Article 47b of this Act are fulfilled;
2. for the purposes of illustration in direct teaching, provided that the conditions referred to in point 1 of paragraph one of Article 49 of this Act are fulfilled;
3. for private or other internal use of the contents of a non-electronic database, provided that the conditions referred to in Article 50 of this Act are fulfilled.

(2) The use of a published database shall be permissible in the case of:

1. out-of-commerce works, provided that the conditions referred to in Article 50e, 50f and 50g of this Act are fulfilled;
2. text and data mining, provided that the conditions referred to in Article 57a of this Act are fulfilled;
3. text and data mining for scientific research, provided that the conditions referred to in Article 57b of this Act are fulfilled;
4. cultural heritage preservation, provided that the conditions referred to in Article 57d of this Act are fulfilled.

(3) The use of a database shall be free if this is necessary in certain special cases for the performance of tasks relating to public security or the performance of any official

procedures, such as procedures in the National Assembly of the Republic of Slovenia or the National Council of the Republic of Slovenia, or judicial proceedings or administrative or arbitration procedures.

## Chapter Six

### **MANAGEMENT AND ENFORCEMENT OF RIGHTS (Ceased to be in force)**

#### Section 1

#### GENERAL PROVISIONS

##### **Author and agent**

##### **Article 142 (Ceased to be in force)**

##### **Individual and collective enforcement**

##### **Article 143 (Ceased to be in force)**

##### **Scope of management through an agent**

##### **Article 144 (Ceased to be in force)**

##### **Related rights**

##### **Article 145 (Ceased to be in force)**

#### Section 2

#### COLLECTIVE MANAGEMENT

##### **Activities of collective management organisations**

##### **Article 146**

**(Ceased to be in force)**

**Mandatory collective management**

**Article 147  
(Ceased to be in force)**

**Application for the issue of authorisation**

**Article 148  
(Ceased to be in force)**

**Grounds for refusal**

**Article 149  
(Ceased to be in force)**

**The issue of authorisation**

**Article 150  
(Ceased to be in force)**

**Contract with the author**

**Article 151  
(Ceased to be in force)**

**Obligation to manage rights collectively**

**Article 152  
(Ceased to be in force)**

**Rules for the distribution of revenue**

**Article 153  
(Ceased to be in force)**

**Special case of distribution**

**Article 154**

**(Ceased to be in force)**

**Obligation to provide information**

**Article 155  
(Ceased to be in force)**

**Tariff**

**Article 156  
(Ceased to be in force)**

**Joint agreement**

**Article 157  
(Ceased to be in force)**

**Procedure before the Board**

**Article 157a  
(Ceased to be in force)**

**The Board's decision**

**Article 157b  
(Ceased to be in force)**

**Costs of the procedure before the Board**

**Article 157c  
(Ceased to be in force)**

**Judicial protection against the Board's decisions**

**Article 157d  
(Ceased to be in force)**

**The Board**

**Article 157e**

**(Ceased to be in force)**

## **Organisation of the Board**

**Article 157f**  
**(Ceased to be in force)**

## **Obligation to contract**

**Article 158**  
**(Ceased to be in force)**

## **Obligation of users to provide information**

**Article 159**  
**(Ceased to be in force)**

## **Supervision by members**

**Article 160**  
**(Ceased to be in force)**

## **Annual reports and audits**

**Article 161**  
**(Ceased to be in force)**

## **Supervision by the competent authority**

**Article 162**  
**(Ceased to be in force)**

## **Measures in the case of infringements by collective management organisations**

**Article 162a**  
**(Ceased to be in force)**

## **Mediation**

**Article 163**

**(Ceased to be in force)**

**Arbitration**

**Article 163a  
(Deleted)**

Chapter Six a

**COMMUNICATION TO THE PUBLIC IN THE CONTEXT OF ONLINE CONTENT-SHARING SERVICES**

**Online content-sharing service providers**

**Article 163b**

(1) An online content-sharing service provider shall be deemed to be an information society service provider under the provisions of the Act governing the electronic commerce market whose main purpose or one of the main purposes is to store and offer to the public access to a large number of copyright works uploaded to a server by users of its services and organised and promoted by that provider for the purpose of making a profit.

(2) Information society service providers, such as not-for-profit online encyclopaedias, not-for-profit scientific or educational repositories, open-source software development and sharing platforms, electronic communications service providers as referred to in the Act governing electronic communications, online marketplaces and business-to-business cloud services, and cloud services that allow users to upload content for their own use to a server, shall not be deemed to be online content-sharing service providers.

(3) The provisions of this Chapter, in so far as they relate to a copyright work, a copyright and the author, shall apply, *mutatis mutandis*, to the subject matter of related rights, related rights and their holders.

**Liability of online content-sharing service providers**

**Article 163c**

(1) An online content-sharing service provider performs an act of communication to the public when it makes available to the public copyright works uploaded to a server by its users, for which it must obtain the author's permission. That permission shall also cover acts of communication to the public carried out by users of that provider's services where they do so without the intention to obtain direct or indirect economic advantage or where the activities of these users do not generate substantial revenue.

(2) Where an online content-sharing service provider performs an act of communication to the public under the provisions of this Chapter, the provisions on the liability of a hosting service provider under the Act governing electronic commerce market shall not apply, except to its conduct in the context of other information society services.



(3) If the online content-sharing service provider does not have the author's permission, it shall be liable for unauthorised acts of communication to the public of a copyright work, unless it proves that it has:

1. made all reasonable efforts to obtain the author's permission,
2. made all reasonable efforts, acting with the diligence of a good professional, to ensure the unavailability of a particular copyright work for which the author has provided it with the relevant and necessary information, and
3. upon receipt of a sufficiently substantiated request from the author, immediately removed the notified copyright work from its website or disabled access thereto, and made all reasonable efforts to prevent its further upload to its server in accordance with the preceding point.

(4) In determining whether an online content-sharing service provider has complied with its obligations under the preceding paragraph, account shall be taken, having regard to the principle of proportionality, in particular of:

1. the type, audience and extent of the services and the type of copyright works uploaded by the users of the service, and
2. the availability of suitable and effective means and their cost for the service provider.

### **Liability of new online content-sharing service providers**

#### **Article 163d**

(1) A new online content-sharing service provider shall be deemed to be a provider of online content-sharing services whose services have been available to the public in the European Union for less than three years and whose net turnover as at the annual balance sheet cut-off date does not exceed EUR 10 million.

(2) The provisions of this Chapter, with the exception of paragraph three of the preceding Article, shall also apply to a new provider of online content-sharing services.

(3) If a new online content-sharing service provider does not have the author's permission, it shall be liable for unauthorised acts of communication to the public, unless it proves that it has:

1. made all reasonable efforts to obtain the author's permission and,
2. upon receipt of a sufficiently substantiated request from the author, immediately removed the notified copyright work from its website or disabled access to it.

(4) Where the average number of monthly unique visitors of a new online content-sharing service provider exceeds 5 million, calculated on the basis of the previous calendar year, the new online content-sharing service provider shall not be liable for unauthorised acts of communication to the public if, in addition to the circumstances referred to in the preceding paragraph, it demonstrates that it has made all reasonable efforts to prevent further upload to its server of the notified copyright work, for which the author has provided relevant and necessary information.

### **Measures by an online content-sharing service provider**

#### **Article 163e**

(1) The measures taken by an online content-sharing service provider in cooperation with the author may not prevent the availability of a copyright work uploaded to its server by a

user who lawfully uses that work. The online content-sharing service provider may not prevent users of its services from uploading and communicating to the public content generated by them for the purposes of quotation, criticism, review, caricature, parody or pastiche.

(2) The online content-sharing service provider shall inform the users of its services that they may use the copyright work in accordance with the content-related limitations to copyright referred to in the preceding paragraph in the terms and conditions which it publishes on its website.

(3) The obligations of an online content-sharing service provider referred to in paragraph three of Article 163c and paragraph three and paragraph four of Article 163d of this Act shall not impose a general monitoring obligation in respect of the content uploaded by users to the server.

## **An author's right to information**

### **Article 163f**

(1) An online content-sharing service provider shall provide an author, upon his request, relevant information on:

1. the type of measures taken to prevent unauthorised acts of communication to the public referred to in paragraph three of Article 163c, or paragraph three and paragraph four of Article 163d of this Act, and the manner of taking the measures;
2. the use of copyright works, where the provider has obtained the author's permission.

(2) The transfer of the personal data of individual users and other processing of personal data shall be prohibited, unless otherwise provided by another act or regulation of the European Union.

## **Request by an author**

### **Article 163g**

An author may request an online content-sharing service provider to remove his notified copyright work from its website or to disable access thereto where the work has been uploaded to the server of the online content-sharing service provider and communicated to the public without the author's permission. The author shall substantiate his request to the extent necessary to enable the online content-sharing service provider to take a decision on the basis thereof.

## **Complaint by a user**

### **Article 163h**

(1) An online content-sharing service provider shall provide users of its services an effective, rapid and free-of-charge complaint procedure for removing content uploaded by users to its server or for disabling access thereto.

(2) The online content-sharing service provider shall promptly inform the user who has uploaded content to its server that the content has been removed or access thereto has been disabled, of the reasons for such and of the possibility of filing a complaint.

(3) The online content-sharing service provider shall lay down the complaint procedure in the terms and conditions that it publishes on its website.

(4) The online content-sharing service provider shall ensure that a complaint filed by a user of its services is decided on without delay by a human being.

(5) Notwithstanding the complaint procedure, the online content-sharing service provider and the user of its services may agree to resolve disputes regarding the online content-sharing services, the removal of content or the disabling of access to content in the manner provided by Article 82a of this Act.

## Chapter Seven

### **PROTECTION OF RIGHTS**

#### Section 1

#### GENERAL PROVISIONS

##### **Beneficiaries**

##### **Article 164**

(1) A person whose rights under this Act have been infringed (a beneficiary) may seek the protection of his rights and claim compensation for damage from the infringer or infringers in accordance with the rules on the causing of damage, unless otherwise provided by this Act.

(2) The same protection may be sought by a beneficiary when there is an actual risk that an infringement of the rights under this Act will occur.

##### **Severally bound beneficiaries and infringers**

##### **Article 165**

(1) Where there are several beneficiaries of a right under this Act, each of them may seek the protection of this right in its entirety.

(2) Where there are several infringers of a right under this Act, each of them is liable for the infringement in its entirety.

##### **Protection of rights-management information**

## **Article 166**

(1) It shall be deemed that a person infringes the exclusive rights under this Act when he, without authorisation, commits any of the following acts by which he induces, enables, facilitates or conceals 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 in relation to which electronic rights-management information has been removed or altered without authorisation.

(2) "Rights-management information" referred to in the preceding paragraph shall mean any information provided by right-holders on the identification of the subject matter of rights, the author, the right-holder, and 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.

## **Technological measures**

### **Article 166a**

(1) It shall be deemed that a person infringes the exclusive rights under this Act when they circumvent effective technological measures designed to protect copyright works or subject matters of related rights.

(2) It shall be deemed that a person infringes the exclusive rights under this Act when he manufactures, imports, distributes, sells, rents out, advertises for sale or rental, or possesses for commercial purposes technologies, devices, products, components or computer programs or provides services which:

1. are promoted, advertised or marketed for the purpose of the circumvention of effective technological measures;
2. have only a limited commercially significant purpose or use other than to circumvent effective technological measures; or
3. are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technological measures.

(3) "Technological measures" under this Article shall mean any technology, device, product, component or computer program that, in the normal course of its operation, is designed to prevent or restrict acts which are not authorised by the holder of rights under this Act. These measures shall be deemed "effective" where the use of a protected work is controlled by the right-holders under this Act through the application of an access-control or protection process, such as encryption, scrambling or other transformation of the protected work, or a copy-control mechanism which achieves the protection objective.

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

(5) The acts referred to in the preceding paragraphs shall not be deemed infringements if they are carried out in certain special cases of performance of tasks relating to public security or the performance of any official procedures, such as procedures in the National Assembly of the Republic of Slovenia or the National Council of the Republic of Slovenia, or judicial proceedings or administrative or arbitration procedures.

## **Obligation to use markings**

### **Article 166b**

In the case of the use of technological measures under this Act, the right-holder or importer shall put a clearly visible marking on each copy of a copyright work or subject matter of related rights manufactured or imported for commercial purposes indicating:

1. information on the technological measure and its effects and
2. his registered name and address in order to ensure an effective implementation of paragraph one of Article 166c of this Act.

## **Application of limitations to rights**

### **Article 166c**

(1) A right-holder who uses technological measures pursuant to this Act shall provide, on request and within the shortest time possible, those persons having legal access to a copy of a copyright work or the subject matter of related rights with the means to apply the limitations to rights referred to in paragraph three of this Article by modifying a technological measure or by other means.

(2) If the right-holder fails to secure the means referred to in the preceding paragraph, the persons seeking to apply the limitations on rights may request mediation.

(3) Limitations to rights pursuant to paragraph one shall be applied, subject to conditions laid down by this Act, including any payment of remuneration, in the following cases:

1. use for the benefit of people with disabilities and beneficiary persons (Article 48a);
2. illustration in distance or cross-border teaching by electronic means (Article 47b);
3. illustration in direct teaching (point 1 of paragraph one of article 49);
4. reproduction for private and other internal use (Article 50);
5. official procedures (Article 56);
6. text and data mining (Article 57a);
7. text and data mining for scientific research (Article 57b);
8. scientific research (Article 57c);
9. cultural heritage preservation (Article 57d);
10. ephemeral fixations made by broadcasting organisations (paragraph two of Article 77).

(4) Paragraphs one, two and three of this Article shall not apply to technological measures that are used for:

1. the fulfilment of a right-holder's obligation under paragraph one of this Article, including the implementation of appropriate contracts concluded for this purpose;
2. protected works that are used, on the basis of an appropriate contract, within the meaning of Article 32a of this Act.

## **Section 2**

### **JUDICIAL PROTECTION**

#### **Claims**

## **Article 167**

(1) When the exclusive rights under this Act are infringed, the beneficiary may request that:

1. the infringement and any future infringements be prohibited;
2. the infringing goods be recalled from the channels of commerce, taking account of the interests of bona fide third parties;
3. the situation caused by the infringement be rectified;
4. the infringing goods be irrevocably removed from the channels of commerce;
5. the infringing goods be destroyed;
6. the means of the infringement that are owned by the infringer and are intended or used exclusively or principally for the infringement be destroyed;
7. the infringing goods be given to the beneficiary on payment of the costs of their production;
8. the judgment be published.

(2) In deciding on the claims referred to in points 2 to 7 of the preceding paragraph, the court shall take account of all circumstances of the case, in particular proportionality between the gravity of the infringement and the claim and the interest of the beneficiary in ensuring the effective protection of rights. The provisions of points 3 and 5 of the preceding paragraph shall not apply to built architectural structures, unless the destruction of such structures is appropriate considering the circumstances of the case.

(3) In proceedings against a person whose services have been used to infringe a right, and where the existence of such an infringement has already been finally established in proceedings against a third party, it shall be deemed that the infringement exists.

## **Compensation for damage and punitive damages**

### **Article 168**

(1) Infringements under this Act shall be subject to general rules governing the causing of damage, unless otherwise provided by this Act.

(2) The infringer shall be obliged to pay to the beneficiary compensation in the amount defined under general rules on compensation for damage or in an amount that is equal to the agreed or customary royalties or remuneration for lawful use of such kind.

(3) If a right under this Act was infringed intentionally or as a result of gross negligence, the beneficiary may claim the payment of the agreed or customary royalties or remuneration for such use, increased by up to 200%, irrespective of whether he suffered any actual pecuniary damage because of the infringement.

(4) In deciding on the claim for the payment of the punitive damages and in setting their amount, the court shall take into account all circumstances of the case, in particular the degree of culpability of the infringer, the amount of the agreed or customary royalties or remuneration, and the preventive purpose of the punitive damages.

(5) If the pecuniary damage exceeds the amount of the punitive damages, the beneficiary shall have the right to claim the difference up to the value of full compensation.

## **Monetary satisfaction for non-pecuniary damage**

## **Article 169**

Irrespective of any compensation for pecuniary damage, or even if there is no pecuniary damage suffered, the court may award to an author or a performer fair monetary compensation for the mental anguish and suffering endured as a result of the infringement of his moral rights if it finds that the circumstances of the case, and especially the degree of suffering and its duration, so dictate.

## **Interim injunctions**

### **Article 170**

(1) The court shall issue an interim injunction to secure non-monetary claims under this Act if the beneficiary shows that there are probable grounds for believing that:

1. he is a right-holder under this Act and
2. his right has been infringed or that there is an actual risk that it will be infringed.

(2) The beneficiary shall also show that there are probable grounds for believing:

1. that there is a risk that the enforcement of claims will be made impossible or rather difficult;
2. that the injunction is necessary to prevent damage difficult to repair; and
3. that, in the event that the injunction is issued but subsequently proves unfounded in the course of the proceedings, the harm to the alleged infringer would not be greater than the harm to the beneficiary if such an injunction were not to be issued.

(3) A beneficiary who proposes the issuing of an interim injunction without prior notification or hearing of the opposite party shall show, in addition to the requirements of paragraphs one and two, that there are probable grounds for believing that any delay in issuing the interim injunction would cause him damage difficult to repair. In this case, the opposite party shall be notified no later than immediately after the execution of the injunction.

(4) The beneficiary shall not be obliged to prove that there is a risk that the enforcement of claims will be made impossible or rather difficult if he shows that there are probable grounds for believing that the proposed injunction would cause the infringer only negligible damage. Such a risk shall be deemed to exist when the claims are to be enforced abroad, unless a claim is to be enforced in another Member State of the European Union.

(5) To secure non-monetary claims under paragraph one of this Article, the court may issue any interim injunction with which the purpose of security can be achieved, in particular:

1. to prohibit the alleged infringer from continuing the alleged infringement or from any future infringements;
2. to seize, remove from circulation and take into custody the infringing goods and the means of the infringement that are intended or used exclusively or principally for the infringement.

(6) The court shall decide on an objection to the decision on the interim injunction within 30 days of the date of filing the response to the objection or of the expiry of the time limit for filing the response to the objection.

(7) The provisions of the law governing claim enforcement and security shall apply to proceedings for the issuing of an interim injunction, unless otherwise provided by this Act. The proceedings shall be urgent.

## **Preservation of evidence**

## **Article 171**

(1) The court shall issue an order to preserve evidence if the beneficiary has presented reasonably available evidence to support his claim:

1. that he is a right-holder under this Act;
2. that his right has been infringed or that there is an actual risk that it will be infringed; and
3. that evidence of the infringement will be destroyed or that it will be impossible to take such evidence at a later time.

(2) A beneficiary who requests the issuing of an order to preserve evidence without prior notification or hearing of the opposite party shall show, in addition to the requirements of paragraph one, that there are probable grounds for believing that there is a risk of evidence of the infringement being destroyed as the result of the conduct of the opposite party or that it will be impossible to take such evidence at a later time. In this case, the opposite party shall be notified no later than immediately after the execution of the order.

(3) The court may issue an order referred to in paragraph one of this Article to take any evidence in particular:

1. to inspect premises, business documents, inventories, databases, computer memory units or other items;
2. to seize samples of the infringing goods;
3. to examine and seize documents;
4. to appoint and examine experts; and
5. to examine witnesses.

(4) The preservation of evidence may also be requested after the decision by which the proceedings are completed has become final if this is necessary before or during proceedings with extraordinary legal remedies.

(5) The provisions of the law governing claim enforcement and security relating to interim injunctions shall apply, *mutatis mutandis*, to the proceedings for the preservation of evidence under this Article, unless otherwise provided by this Act. The proceedings shall be urgent.

(6) Where it is subsequently found that the request for the preservation of evidence was unfounded or that the beneficiary did not justify it, the opposite party shall have the right to request:

1. the return of the seized objects;
2. the prohibition of the use of information obtained; and
3. compensation for damage.

(7) In the proceedings for the preservation of evidence under this Article, the court shall ensure that confidential information from the parties is protected and that judicial proceedings are not used in bad faith with the sole purpose of obtaining confidential information from the opposite party.

## **Obligation to provide information**

### **Article 172**

(1) In proceedings concerning an infringement of rights, the court may, upon a justified request by a party, order that information on the origin and distribution networks of the goods or services which infringe a right referred to this Act be provided by the alleged infringer.



(2) The court may order that information referred to in the preceding paragraph be also provided by any person who:

1. possesses the infringing goods on a commercial scale;
2. uses the infringing services on a commercial scale; or
3. provides on a commercial scale services used in infringing activities. An act shall be deemed to be carried out on a commercial scale if it is carried out for direct or indirect economic advantage.

(3) The court may order that information referred to in paragraph one of this Article be also provided by a person who was indicated by the person referred to in the preceding paragraph as being involved in the production, manufacture or distribution of the goods or the provision of the services.

(4) The information referred to in paragraph one may comprise:

1. the names and addresses or registered names and registered offices of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or providers of services and any intended wholesalers and retailers and
2. information on quantities produced, manufactured, delivered, received or ordered and on the price obtained for the goods or services in question.

## **Presentation of evidence**

### **Article 173**

(1) If the court decides to take the proposed evidence and the evidence is in the possession of the opposite party, that party shall present such evidence at the request of the court.

(2) The preceding paragraph shall also apply to banking, financial and commercial documents under the control of the opposite party if the infringement was committed on a commercial scale.

(3) The provisions of the law governing contentious civil procedure shall apply to the proceedings for the presentation of evidence, unless otherwise provided by this Act.

(4) After the taking of evidence referred to in paragraph one of this Article, the court shall ensure that confidential information from the parties to the proceedings is protected and that judicial proceedings are not used in bad faith with the sole purpose of obtaining confidential information from the opposite party.

## **Section 3**

### **MEASURES TO ENSURE PROTECTION**

#### **Register**

### **Article 174**

(1) To preserve the evidence or for other reasons, the holders of rights under this Act may enter the originals or copies of their works, phonograms, videograms or subject

matters of some other right in the register kept by the competent organisation, or they may deposit them with such an organisation.

(2) Until proven otherwise, it shall be deemed that the rights in registered works exist and belong to the person designated in such a register as their holder.

(3) There shall be one public register for a given category of works for the whole state; this shall be kept by an organisation that has been authorised for that purpose by the Office.

(4) In the event of doubt as to whether a given work is a copyright work, the organisation referred to in the preceding paragraph shall give an opinion.

(5) The provisions of this Article shall not affect the existence or protection of rights under this Act.

### **Symbols and notices of reserved exclusive rights**

#### **Article 175**

(1) Holders of the exclusive author's rights under this Act shall have the right to put a notice on the original or copies of their works consisting of the symbol © accompanied by their name or registered name and the year of first disclosure.

(2) Holders of exclusive rights to phonograms under this Act shall have the right to put a notice on the original or copies of their published phonograms or on their containers consisting of the symbol P accompanied by their name or registered name and the year of first publication.

(3) Until proven otherwise, it shall be deemed that the exclusive rights in works or phonograms that bear notices referred to in this Article exist and belong to the person designated therein.

(4) The provisions of this Article shall not affect the existence or protection of rights under this Act.

## **Chapter Eight**

### **RELATIONS WITH FOREIGN ELEMENTS**

#### **General**

#### **Article 176**

(1) Authors and holders of related rights who are citizens of the Republic of Slovenia or another Member State of the European Union or have their permanent residence or registered office in the Republic of Slovenia shall be entitled to protection under this Act.

(2) Other foreign natural or legal persons (foreigners) shall be entitled to the same protection as persons referred to in the preceding paragraph if an international agreement or this Act so provides or if factual reciprocity exists.

(3) Notwithstanding the provisions of this Chapter, foreigners shall be entitled to protection under this Act:

1. with respect to moral rights – in any case;
2. with respect to the resale right and the right to remuneration for the reproduction for private or other internal use – only if factual reciprocity exists.

(4) Reciprocity shall be proved by the person basing his claims upon it.

(5) The provision of this Act relating to the Member States of the European Union shall also apply to the Member States of the European Economic Area.

## **Authors**

### **Article 177**

(1) Protection under this Act shall be enjoyed by authors:

1. who are domiciled in the Republic of Slovenia;
2. with respect to their works published for the first time in the Republic of Slovenia or within 30 days of their publication in another country;
3. with respect to audiovisual works the producer of which has his registered office or residence in the Republic of Slovenia;
4. with respect to works of architecture and works of fine art which are, as immovable property or as fixed and integral parts of immovable property, located on the territory of the Republic of Slovenia.

(2) If a copyright work was created by several authors, all of them shall be entitled to protection under this Act if at least one the authors meets one of the conditions referred to in the preceding paragraph.

## **Performers**

### **Article 178**

(1) Protection under this Act shall be enjoyed by performers:

1. who are domiciled in the Republic of Slovenia;
2. whose performances take place on the territory of the Republic of Slovenia;
3. whose performances are fixed on phonograms that are protected under this Act;
4. whose performances are incorporated, without having been fixed on phonograms, in broadcasts of broadcasting organisations that are protected under this Act.

(2) If several performers take part in a performance, all of them shall be entitled to protection under this Act if at least one of the performers is a citizen of the Republic of Slovenia or has his residence in the Republic of Slovenia.

## **Producers of phonograms, film producers and publishers**

## **Article 179**

(1) Producers of phonograms and film producers whose phonogram or videogram was for the first time fixed in the Republic of Slovenia shall enjoy protection under this Act.

(2) Publishers shall also enjoy protection under this Act with respect to their related rights if their edition was published in the Republic of Slovenia for the first time or within 30 days of its publication in another country.

## **Broadcasting organisations**

### **Article 180**

Broadcasting organisations that broadcast from transmitters located on the territory of the Republic of Slovenia shall enjoy protection under this Act.

## **Comparison of terms of protection**

### **Article 181**

The terms of protection laid down in this Act shall apply to foreign holders of related rights who enjoy protection under this Act; however, they shall expire no later than on the day of expiry of protection in the country of which these holders are citizens, or where their registered office is located, and may not exceed the terms under this Act.

## **Country-of-origin principle for satellite broadcasts and ancillary online services**

### **Article 182**

(1) Broadcasting by satellite shall occur only in the Member State of the European Union in which the programme-carrying signals intended for the public are introduced under the control and responsibility of the broadcasting organisation into an uninterrupted chain of communication leading to the satellite and down towards the earth.

(2) Where an act referred to in the preceding paragraph occurs in a non-member state of the European Union with a lower level of protection, it shall be deemed to have occurred only in the Member State of the European Union in which:

1. the uplink station from which the programme-carrying signals are transmitted is situated, in which case the rights shall be enforceable against the operator of that station;
2. the broadcasting organisation that commissioned the broadcasting by satellite has its principal establishment, provided that the uplink station referred to in the preceding point has not been used, in which case the rights shall be enforceable against that broadcasting organisation.

(3) The provision of ancillary online services by a broadcasting organisation shall occur only in the Member State of the European Union in which the broadcasting organisation has its principal establishment.

(4) The ancillary online services referred to in the preceding paragraph shall be online services provided by a broadcasting organisation or by a person under its control and

responsibility to make its television and radio programmes available to the public simultaneously with or for a defined period of time after their broadcast, as well as any material which is ancillary to such broadcast. Ancillary online services have a subordinate relationship with this broadcasting and comprise the communication to the public, including making available to the public and the necessary reproduction of:

1. radio programmes, and
2. television programmes which are news and current affairs programmes, or fully financed own productions of the broadcasting organisation.

(5) The provision of point 2 of the preceding paragraph shall not apply to the broadcasting of sporting events and protected subject matter included therein.

(6) In setting the amount of equitable remuneration for the rights referred to in this Article, the contracting parties shall take into account all aspects, such as the features and cross-border use of the service, its duration, the actual and potential audience, the available language versions, the calculation according to the revenues of the broadcasting organisation, etc.

(7) In accordance with the principle of contractual freedom, the holders of rights and broadcasting organisations may limit the application of the country-of-origin principle under this Article.

## **Stateless persons and refugees**

### **Article 183**

(1) Authors and holders of related rights who have no citizenship or whose citizenship cannot be determined shall enjoy the same protection under this Act as the citizens of the Republic of Slovenia if they have their place of residence in it.

(2) If such persons do not have their place of residence in the Republic of Slovenia or if their place of residence cannot be determined, they shall enjoy the same protection as citizens of the Republic of Slovenia if they have their place of stay in it.

(3) If such persons have neither their place of residence nor their place of stay in the Republic of Slovenia, they shall enjoy the same protection as citizens of the country in which they have their place of residence or place of stay.

(4) The provisions of this Article shall also apply to authors and holders of related rights who have the status of a refugee under international treaties or regulations of the Republic of Slovenia.

## **Chapter Nine**

### **PENALTY PROVISIONS**

#### **Article 184**

(1) A fine of between EUR 1,700 and EUR 5,000 shall be imposed for a minor offence on a legal entity that:

1. without the transfer of the relevant economic right, when such a transfer is required under this Act, reproduces, distributes, rents out, publicly performs, publicly transmits, publicly communicates, publicly presents, broadcasts, rebroadcasts, conducts secondary broadcasting, makes available to the public, transforms or audiovisually adapts or otherwise uses a work or a copy thereof (Articles 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 (point 2 of Article 116);
3. without the transfer of the relevant exclusive right, when such a transfer is required under this Act, reproduces, fixes, publicly transmits or broadcasts a live performance or reproduces, makes available to the public, distributes or rents out a phonogram or videogram with their performance or otherwise uses a performance (Article 121);
4. without the transfer of the relevant exclusive right, when such a transfer is required under this Act, reproduces, distributes, rents out, makes available to the public or otherwise uses a phonogram or videogram (Articles 129 and 134);
5. without the transfer of the relevant exclusive right, when such a transfer is required under this Act, rebroadcasts, fixes, reproduces, distributes, makes available to the public or otherwise uses a broadcast or a fixation of a broadcast (Article 137);
6. without the transfer of the relevant exclusive right, when such a transfer is required under this Act, reproduces a press publication or makes it available to the public (paragraph one of Article 139a);
7. without the transfer of the relevant exclusive right, when such a transfer is required under this Act, reproduces, distributes, rents out, makes available to the public or otherwise uses a database or a copy thereof (Article 141c);
8. removes or alters electronic rights-management information (point 1 of paragraph one of Article 166);
9. reproduces, distributes, imports for distribution, rents out or communicates to the public a copyright work or subject matter of related rights or a copy thereof in relation to which electronic rights-management information has been removed or altered without authorisation (point 2 of paragraph one of Article 166);
10. circumvents effective technological measures or manufactures, imports, distributes, sells, rents out, advertises for sale or rental, or possesses for commercial purposes any technology, device, product, component or computer program or provides a service for the purpose of circumvention of effective technological measures in the cases referred to in paragraph two of Article 166a (paragraphs one and two of Article 166a);
11. manufactures, imports, distributes, sells, rents out, advertises for sale or rental or possesses for commercial purposes any technology, device, product, component or computer program for the removal or alteration of electronic rights-management information (paragraph four of Article 166a).

(2) A fine of between EUR 350 and EUR 3,000 shall be imposed on a sole trader or a self-employed person for the minor offence referred to in the preceding paragraph.

(3) A fine of between EUR 350 and EUR 1,500 shall be imposed on the responsible person of a legal person or the responsible person of a sole trader or of a self-employed person for the offence referred to in paragraph one of this Article.

(4) A fine of between EUR 350 and EUR 1,000 shall be imposed on an individual for the minor offence referred to in paragraph one of this Article.

(5) Items that were created by the offence shall be confiscated.

#### **Article 184a**

(1) A fine of between EUR 200 and EUR 500 shall be imposed on the authorised entity for the minor offence referred to in paragraph three of Article 48c of this Act that:

1. communicates to the public, distributes or makes available accessible format copies to unauthorised persons or other unauthorised entities (point 1 of paragraph four of Article 48c);
2. fails to discourage the unauthorised reproduction, distribution or communication to the public of accessible format copies (point 2 of paragraph four of Article 48c);
3. fails to demonstrate due care in, and maintain records of, its handling of works for beneficiary persons and of accessible format copies thereof (point 3 of paragraph four of Article 48c);
4. fails to publish and update information on the fulfilment of the obligations under points 1 to 3 of paragraph four of Article 48c of this Act (point 4 of paragraph four of Article 48c);
5. fails to provide beneficiary persons, other authorised entities or rightholders, in an accessible way, with the list of works for which it has accessible format copies and available formats, and with the names and contact details of authorised entities with which it has engaged in the exchange of accessible format copies in cases where accessible format copies are exchanged with an authorised entity established in another Member State of the European Union (point 5 of paragraph four of Article 48c).

(2) A fine of between EUR 50 to EUR 100 shall also be imposed on the responsible person of the authorised entity referred to in paragraph three of Article 48c of this Act for the minor offence referred to in the preceding paragraph.

(3) A fine of between EUR 40 to EUR 100 shall be imposed on the authorised entity referred to in paragraph three of Article 48c of this Act – an individual for the minor offence referred to in paragraph one of this Article.

### **Article 185**

(1) A fine of between EUR 850 and EUR 3,000 shall be imposed for a minor offence on a legal entity that fails to provide a person that has lawful access to a copy of copyright work or to a subject matter of related rights with the means to enable that person the exercise of substantive limitations to rights (Article 166c).

(2) A fine of between EUR 250 and EUR 1,500 shall be imposed on a sole trader or a self-employed person for the minor offence referred to in the preceding paragraph.

(3) A fine of between EUR 250 and EUR 1,000 shall be imposed on the responsible person of a legal entity or the responsible persons of a sole trader or of a self-employed person for the offence referred to in paragraph one of this Article.

(4) A fine of between EUR 250 and EUR 700 shall be imposed on an individual for the minor offence referred to in paragraph one of this Article.

### **Article 186**

(1) Inspection supervision of the implementation of the provisions of Articles 184, 184a and 185 of this Act relating to penalties shall be performed by the Market Inspectorate.

(2) When the inspector establishes that an offence referred to in the preceding paragraph has been committed, he shall:

1. seize the goods which were used for or intended for the commission of the offence or were created by said offence and

2. issue a decision ordering that the established irregularities be eliminated within the specified time limit.

#### **Article 186a**

For the minor offences referred to in this Act, a fine in the amount higher than the minimum fine laid down by this Act may be imposed in expedited proceedings.

### Chapter Ten

#### TRANSITIONAL AND FINAL PROVISIONS

#### **Article 187**

(1) The provisions of this Act relating to remuneration for the reproduction for private or other internal use (Articles 37 to 39) shall start to apply two years of the entry into force of this Act.

(2) The Government of the Republic of Slovenia shall issue a regulation referred to in paragraph one of Article 39 of this Act no later than within one year of the entry into force of this Act.

#### **Article 188**

The provisions of this Act relating to remuneration for the public communication of a phonogram (Articles 122 and 130) shall start to apply two years after the entry into force of this Act.

#### **Article 189**

(1) Organisations of authors that collectively exercised authors' rights under Articles 91 and 93 of the Copyright Act (Official Gazette of the Socialist Federal Republic of Yugoslavia [*Uradni list SFRJ*], Nos. 19/78, 24/86, 21/90) before the entry into force of this Act, may continue to do so without the authorisation from the Office until the Office issues an authorisation for the collective exercise of these same rights to a collective management organisation that meets the conditions laid down by this Act.

(2) Tariffs adopted by the organisations of authors before the entry into force of this Act under Article 91a of the Copyright Act shall apply until general or special tariffs come into effect pursuant to Article 153 of this Act.

(3) **(Ceased to be in force)**

(4) **(Ceased to be in force)**

#### **Article 190**



The provisions of this Act shall not apply to contracts entered into or acts of exploitation performed before the entry into force of this Act, unless otherwise provided by this Act.

#### **Article 191**

The provisions of this Act relating to computer programs and databases shall also apply to computer programs and databases created before the date of entry into force of this Act, unless such application is prejudicial to contracts entered into or rights vested to that date.

#### **Article 192**

To contracts for the use of works and the subject matter of related rights that will be in force upon the entry into force of this Act, the provisions of this Act relating to public communication by satellite shall apply as of 1 January 2000 if such contracts are still in force at that time.

#### **Article 193**

(1) This Act shall apply to all copyright works and performances of performers that, at the time of its entry into force, were protected under the Copyright Act (Official Gazette of the Socialist Federal Republic of Yugoslavia [*Uradni list SFRJ*] Nos. 19/78, 24/86, 21/90).

(2) This Act shall apply to phonograms of phonogram producers with respect to which, upon its entry into force, 20 years have not yet elapsed from the time of their first fixation.

(3) This Act shall apply to videograms, broadcasts and publishers' editions as subjects matters of related rights which were for the first time fixed, broadcast or lawfully published after its entry into force.

(4) This Act shall apply to databases as subject matters of related rights that were created after 1 January 1983.

#### **Article 194**

(1) On the date of entry into force of this Act, the Copyright Act (Official Gazette of the Socialist Federal Republic of Yugoslavia [*Uradni list SFRJ*] Nos. 19/78, 24/86, 21/90) shall cease to apply.

(2) On the date of entry into force of this Act, the Self-management agreement on rights, obligations and responsibilities of publishing organisations and authors entering into contracts (Official Gazette of the Socialist Republic of Slovenia [*Uradni list RS*], No. 7/88) shall cease to apply.

#### **Article 195**

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