

## **THE PARLIAMENTARY ASSEMBLY OF BOSNIA AND HERZEGOVINA**

Pursuant to Article IV.4.a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the 80<sup>th</sup> session of the House of Representatives, held on June 30, 2010, and at the 48<sup>th</sup> session of the House of Peoples, held on July 13, adopted the

### **LAW ON COPYRIGHT AND RELATED RIGHTS**

#### **PART 1 – GENERAL PROVISIONS**

##### Article 1 (Subject Matter of the Law)

This Law governs:

- a) the right of authors with respect to their works in the domains of literature, science and art (copyright);
- b) the rights of performers, producers of phonograms, film producers, broadcasting organizations, publishers and makers of databases with respect to their performances, phonograms, videograms, broadcasts and databases (related rights),
- c) the management of copyright and related rights,
- d) the protection of copyright and related rights,
- e) the area of application of this Law.

##### Article 2 (Disclosure, the Public and Publication)

- (1) Disclosure, under this Law, shall mean that a work of authorship or subject matter of a related right has been made available to the public for the first time, with the consent of an authorized person.
- (2) The terms «public» and «the public», under this Law, shall mean a larger number of persons who are not connected by kinship or other personal relations.
- (3) Publication, under this Law, shall mean that sufficient number of produced copies of a work of authorship or subject matter of a related right has been offered to the public or put into circulation with the consent of an authorized person.

Article 3  
(Relation Between Copyright and Related Rights)

- (1) Protection of related rights, in accordance with this Law, shall by no means affect the rights of authors whose works of authorship are protected by this Law.
- (2) The provisions of this Law concerning the integral parts of a work of authorship, presumed authorship, coauthors, authors of compound works, contents of economic rights of the author and other rights of the author, content limitations on copyright, the beginning and the effects of expiration of the terms of copyright, the relation between copyright and ownership rights and legal transactions of copyright shall apply mutatis mutandis to related rights, unless otherwise set forth in Part five of this Law.

**PART TWO – COPYRIGHT**

**CHAPTER I. WORK OF AUTHORSHIP**

Article 4  
(Protected Works)

- (1) A work of authorship (hereinafter referred to as the «work») shall be an individual intellectual creation in the domain of literature, science and art, regardless of the kind, mode and form of expression, unless otherwise provided for in this Law.
- (2) The works include in particular:
  - a) written works (literary texts, studies, manuals, articles and other writings as well as computer programmes),
  - b) spoken works (speeches, lectures, sermons and other works of a kind),
  - c) dramatic, dramatico-musical and puppetry works,
  - d) choreographic works and works of pantomime,
  - e) musical works with or without words,
  - f) audiovisual works (cinematographic works and works created in a manner similar to cinematographic creation),
  - g) works of visual art (drawings, paintings, graphics, sculptures and other works of a kind),
  - h) works of architecture (sketches, plans drafts and built structures),
  - i) works in all branches of applied art, graphic and industrial design,
  - j) photography works and works produced by a process similar to photography,

- k) cartographic works,
- l) presentations of scientific, educational or technical nature (technical sketches, plans, graphs, forms, expertise, experts' reports, plastic presentations and other works of a kind).

Article 5  
(Elements of a Work)

The inception of a work, an unfinished work, a title and other elements of a work shall be protected as independent works, provided that they represent individual intellectual creations.

Article 6  
(Alterations of a Work)

(1) Translations, adaptations, musical arrangements, musical remakes and other alterations of the original works, which are individual intellectual creations, shall be protected as independent works.

(2) The protection of the works referred to in paragraph (1) of this Article shall not affect the rights of the author of the original work.

Article 7  
(Collections)

(1) The collections of works or other material (encyclopedias, miscellanea, anthologies, collections of folk literary and artistic creations, collections of documents, collections of court decisions, databases and the like) which, by reason of the selection, layout or the way of displaying their contents, constitute independent individual intellectual creations shall be considered works.

(2) The inclusion of original works in a collection must not infringe the rights of authors of such works. By inclusion of other original material in a collection, such material shall not become a protected work.

(3) The databases referred to in paragraph (1) of this Article shall be the collections of independent works, data or other material in any form, arranged according to the system or method and individually accessible by electronic or other means.

(4) The protection under this Article shall not apply to the computer programmes used in the making or operation of electronic databases.

Article 8  
(Unprotected Creations)

- (1) Copyright protection shall not extend to:
  - a) ideas, concepts, procedures, work methods, mathematical operations, principles or discoveries,

- b) official texts in the domain of legislation, administration and judiciary (laws, regulations, decisions, reports, minutes, judgments and alike),
- c) political speeches and speeches made at court hearings,
- d) daily news or miscellaneous information having the character of mere items of press information,
- e) folk literary and artistic creations.

(2) The translations of the texts and speeches referred to in items b) and c) of paragraph (1) of this Article shall be copyrighted, unless they are published as official texts.

## **CHAPTER II. AUTHOR**

### Article 9 (Natural Person)

The author of a work is a natural person who created the work.

### Article 10 (Presumption of Authorship)

The author is presumed to be a person whose forename and surname, pseudonym or another artist's mark appears in the customary manner on the work, until proven to the contrary.

### Article 11 (Unknown Author)

(1) In the case of an anonymous or a pseudonymous work, the publisher whose name is indicated on the work shall be deemed the author's representative until the contrary is proven, and as such he shall be entitled to exercise author's moral and economic rights. If the publisher is not indicated on the work, the person who has disclosed the work shall be entitled to exercise copyright.

(2) Copyright to an unpublished work, of which the author is unknown, shall be exercised by a respective authors organization.

(3) The provisions of paragraphs (1) and (2) of this Article shall cease to apply once the author's identity has become known. The person who exercised copyright under the provisions of paragraphs (1) and (2) of this Article shall transfer the benefits derived from copyright to the author, unless otherwise provided by a contract. The legal rules on the position of a bona fide holder shall apply *mutatis mutandis* to the transfer of rights or handover of things.

(4) The persons referred to in paragraphs (1) and (2) of this Article may transfer single economic rights to third parties only in such scope and duration, and only on such conditions as are customary for the regular use of a particular kind of work and which are not contrary to the justifiable economic interests of the author. Otherwise, the author shall have the right to demand termination of the contract and claim compensation for

damages from the persons referred to in paragraphs (1) and (2) of this Article, as well as from the third party unto whom the rights have been transferred.

Article 12  
(Coauthors)

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

(2) A co-author's share shall be determined in proportion to the real contribution made by each co-author to the creation of a work, unless their relationships are regulated otherwise by a contract.

(3) The decision on the use of a work shall be made jointly by all co-authors. A co-author may not withhold his consent contrary to the principles of conscientiousness and good faith.

(4) If a joint work consists of the parts which may be used separately and if the author of each such part may be identified, the author of each part shall be considered the original owner of the economic right in the part created by him.

Article 13  
(Authors of Compound Works)

(1) If two or more authors join their works for the purpose of joint exploitation, each of them shall have the copyright in his own work. The relations between the authors of compound works shall be regulated by a contract.

(2) Unless otherwise agreed upon, the provision of paragraph (3) of Article 12 of this Law shall apply *mutatis mutandis* to the authors of compound works.

### **CHAPTER III. CONTENTS OF COPYRIGHT**

#### **Section A. General Provisions**

Article 14  
(Origins of Copyright)

Copyright stems from and belongs to the author by mere creation of a work and it is not conditioned by the fulfillment of any formalities or requirements in respect of the contents, quality or purpose thereof.

Article 15  
(Contents of Copyright)

Copyright is an indivisible right to a work, containing exclusive personal and legal entitlements (moral rights of the author), exclusive economic entitlements (economic rights of the author) and other entitlements of the author (other rights of the author).

## **Section B. Moral Rights of the Author**

### Article 16 (Contents of Rights)

The moral rights of the author protect the author with respect to his intellectual and personal ties to his work.

### Article 17 (Right to Disclosure)

The author shall have the exclusive right to decide whether, when, in which manner and in which form his work shall be disclosed.

### Article 18 (Right to Recognition of Authorship)

- (1) The author shall have the exclusive right to be recognized and indicated as the creator of his work.
- (2) The author shall have the right to decide whether his work shall be disclosed under his name, pseudonym or another mark or anonymously.

### Article 19 (Right to Integrity of the Work)

The author shall have the exclusive right to oppose to any modification or use of the work if such modification or use would be harmful to his honour or reputation.

## **Section C. Economic Rights of the Author**

### Article 20 (Contents of Rights)

- (1) The economic rights of the author give the author an exclusive power to prohibit or to authorize the exploitation of his work and copies thereof, unless otherwise provided by this Law.
- (2) Another person may exploit a work only with the permission of the author, unless otherwise provided by this Law.
- (3) The author shall be entitled to special remuneration for any form of exploitation of his work by another person, unless otherwise provided by this Law or a contract.
- (4) The economic rights of the author contain in particular:
  - a) right of reproduction,
  - b) right of distribution,
  - c) rental right,
  - d) right of communication to the public

- e) right of transformation,
- f) right of audiovisual adaptation (Article 110),
- g) right of translation.

Article 21  
(Right of Reproduction)

- (1) The right of reproduction shall be the exclusive right to fix a work in a tangible medium (a copy of the work) directly or indirectly, temporarily or permanently, in whole or in part, by any means and in any manner.
- (2) The work is reproduced particularly in the form of graphic reproduction, three-dimensional reproduction, photograph, photocopy and reproduction in other forms making the same effect, sound or visual recording, building or carrying out an architectural structure and storage of the work in electronic form.

Article 22  
(Right of Distribution)

- (1) The right of distribution shall be the exclusive right to put into circulation the original or copies of a work, recording of a performance or phonogram in a tangible medium, by sale or another way of transfer of ownership, including importation for the purpose of such putting into circulation and public sale or another form of the transfer of ownership.
- (2) The right of distribution shall also include the exclusive right to import the copies of the work to a certain state for further putting into circulation, regardless of whether they were made lawfully or not.

Article 23  
(Right of Rental)

- (1) The right of rental shall be the exclusive right to rent 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 paragraph (1) of this Article shall not apply to the use of:
  - a) architectural structures,
  - b) original or a copy of the work of applied art and industrial design,
  - c) original or a copy of the work for the purpose of communication to the public,
  - d) original or a copy of the work for on-the-spot reference,
  - e) within the scope of employment if the use is limited exclusively to the execution of work related duties under such employment,
  - f) computer program if it is not the essential object of the rental.
- (3) The right of the rental of a computer program shall not apply to the rental of a computer program where the program itself is not the essential object of the rental.

Article 24  
(Right of Communication to the Public)

The right of communication to the public shall be the exclusive right to make a work available to the public in an intangible form and it includes in particular:

- a) right of public performance,
- b) right of public transmission,
- c) right of public presentation,
- d) right of public communication by means of phonograms and videograms,
- e) right of broadcasting and cable transmission,
- f) right of rebroadcasting and cable retransmission,
- g) right of secondary use of a broadcast work,
- h) right of making available to the public.

Article 25  
(Public Performance)

The right of public performance shall be the exclusive right to communicate to the public:

- a) a work in the literary or scientific domain by means of its live reading or reciting (right of live recitation),
- b) a musical work by means of its live performance (right of public musical performance),
- c) a dramatic, dramatico-musical, choreographic, puppetry or pantomime work by its live stage presentation (right of public stage presentation).

Article 26  
(Public Transmission)

The right of public transmission shall be the exclusive right to communicate the recitation, musical performance or stage presentation of a work to the public which is outside the place of live recitation, performance or stage presentation of the work by means of loudspeaker, screen or similar technical device.

Article 27  
(Public Presentation)

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

Article 28  
(Public Communication by Means of Phonograms and Videograms)

The right of public communication by means of phonograms and videograms shall be the exclusive right to communicate to the public the recitations, performances or stage presentations of the works fixed in phonograms or videograms.

Article 29



(Broadcasting and Cable Transmission)

(1) The right of broadcasting and cable transmission shall be the exclusive right to communicate a work to the public by radio or television program signals intended for public reception, by wireless transmission (including satellite) or by wire transmission (including cable or microwave system).

(2) The satellite transmission referred to in paragraph (1) of this Article shall exist when program signals intended for public reception are sent in an uninterrupted communication chain to the satellite and back down to Earth under the control and responsibility of a broadcasting organization.

(3) If the program-carrying signals are encrypted, the satellite broadcasting shall exist on condition that the means for decrypting the signals are provided to the public by a broadcasting organization carrying out the broadcasting or by an authorized third party.

Article 30  
(Rebroadcasting and Cable Retransmission)

The right of rebroadcasting or cable retransmission shall be the exclusive right to a simultaneous, unaltered and unabridged communication to the public of the broadcast of a work when:

- a) such communication is made by a broadcasting organization other than the one which initially broadcasted the work or
- b) the communication is made by another entity by cable or microwave system which involves more than 100 cable connections or when the work is initially broadcasted from another state (cable retransmission).

Article 31  
(Secondary Use of a Broadcast Work)

The right of secondary use of a broadcast work shall be the exclusive right to simultaneous communication to the public of a broadcast work or a rebroadcast work or a work retransmitted by cable by means of loud speaker, screen or similar technical device.

Article 32  
(Right of Making Available to the Public)

The right of making available to the public shall be the exclusive right to communicate a work to the public by wire or wireless transmission in such a way that a member of the public may access the work from a place and at a time chosen by him (internet, video-on-demand, music-on-demand and the like).

Article 33  
(Right of Transformation)

- (1) The right of transformation shall be the exclusive right to translate, adapt for stage or musically arrange, alter or otherwise transform a pre-existing work.
- (2) The right referred to in paragraph (1) of this Article shall extend also to the case where a pre-existing work is included or incorporated in a new work in an unaltered form.
- (3) The author of a pre-existing work retains the exclusive right to use his work in a transformed form, unless otherwise provided by this Law or a contract.

## **Section D. Other Rights of the Author**

### Article 34

#### (Right to Remuneration for Public Lending)

- (1) The author shall have the right to equitable remuneration if the original or a copy of his work is lent by the libraries or other institutions performing such activity.
- (2) Public lending, within the meaning of this Law, shall mean allowing the use for a limited period of time, without direct or indirect economic advantage.
- (3) The provisions of paragraphs (1) and (2) of this Article shall not apply to the use of:
  - a) originals or copies of library material in national libraries, libraries at public educational institutions and public specialized libraries,
  - b) architectural structures,
  - c) originals or copies of the works of applied art and industrial design,
  - d) originals or copies of the works for the purpose of communication to the public,
  - e) originals or copies of the works for on-the-spot reference or lending thereof among public institutions,
  - f) within the scope of employment if the use is limited exclusively to the execution of the work related duties under such employment.
- (4) Lending of the originals or copies of the computer programs and databases is the exclusive right of their author.

### Article 35

#### (*Droit de suite*)

- (1) If an original work of fine art is resold after the first sale thereof by the author, the author shall have the right to be notified of such sale and a new owner, and to claim remuneration in the amount set forth in this Article, provided that the seller, buyer or agent is an art market professional (salesrooms, galleries, auction houses and the like).

- (2) The seller, the buyer and the agent shall be jointly liable for the obligations referred to in paragraph (1) of this Article.
- (3) The original works of fine art referred to in paragraph (1) of this Article shall include paintings, drawings, collages, graphics, gravures, photographs, tapestries, sculptures, artistic works made of clay, glass or other material and similar works created by the artist himself, or the reproductions of such works considered to be originals. The reproductions of works shall be considered originals if they are made by the author or a person authorized by him, in a limited number of copies which are, as a rule, numbered and signed by the author.
- (4) The remuneration on the grounds of *droit de suite* shall be paid as percentage of the selling price of the original, net of tax.
- (5) The remuneration referred to in paragraph (4) of this article shall be:
  - a) 4% for the portion of the selling price from KM 1.000 to KM 100.000,
  - b) 3% for the portion of the selling price from KM 100.001 to KM 400.000,
  - c) 1% for the portion of the selling price from KM 400.001 to KM 700.000,
  - d) 0,5% for the portion of the selling price from KM 700.001 to KM 1.000.000,
  - e) 0,25% for the portion of the selling price exceeding KM 1.000.000.
- (6) Irrespective of the selling price of the original, the remuneration on the grounds of *droit de suite* may not exceed KM 25.000.
- (7) *Droit de suite* may not be subject to waiver, transfer *inter vivos* by legal transactions and execution.

#### Article 36

##### (Right to Remuneration for Private and Other Internal Use)

- (1) If, under the provisions of Article 46 of this Law, a work may be reproduced without author's consent, the author of the works which, due to their nature, may be expected to be reproduced by photocopying or recording them on sound, video or text recording media for private or other internal use shall have the right to remuneration for such use.
- (2) The remuneration, referred to in paragraph (1) of this Article, for sound and visual recording shall be payable:
  - a) at the first sale or importation of new technical devices for sound and visual recording and
  - b) at the first sale or importation of new blank sound, video or text recording media.
- (3) The remuneration for photocopying referred to in paragraph (1) of this Article shall be payable:

- a) at the first sale or importation of new photocopying devices,
  - b) on made photocopies intended for sale.
- (4) For the purposes of this Law, the importation into Bosnia and Herzegovina shall mean any release into circulation and any bringing of goods into the territory of Bosnia and Herzegovina, with the exception of small quantities intended for private and noncommercial use, which are brought into as a part of personal luggage or sent in small consignments.
- (5) Equal to photocopying shall be considered all other reproduction techniques, and equal to sound and visual recording devices shall be considered all other devices allowing for the achievement of the same effect.
- (6) The right to remuneration under the provision of paragraph (1) of this Article may not be subject to waiver, disposal with during lifetime and execution.

Article 37  
(Persons Liable to Pay Remuneration)

- (1) The remuneration referred to in paragraph (2) and item a) of paragraph (3) of Article 36 of this Law shall be paid by the manufacturers of sound and visual recording devices, manufacturers of photocopying devices and manufacturers of blank audio and video recording media.
- (2) If the devices and blank media referred to in paragraph (1) of this Article are imported into Bosnia and Herzegovina, the remuneration referred to in Article 36 of this Law shall be paid by the importer.
- (3) The manufacturers referred to in paragraph (1) of this Article shall not pay remuneration for the devices and blank media which are exported from Bosnia and Herzegovina.
- (4) The remuneration referred to in item b) of paragraph (3) of Article 36 of this Law shall be paid by natural persons and legal entities rendering photocopying services against payment.

Article 38  
(Amount of Remuneration)

- (1) The amounts of individual remunerations for private and other internal reproduction, belonging collectively to all right holders under this Law, shall be fixed by the Council of Ministers of Bosnia and Herzegovina.
- (2) The amounts referred to in paragraph (1) of this Article shall be fixed separately for different categories of devices and media as follows:
- a) for any sound recording device – dependent on the technology (analogue, digital) and the fact whether such devices are intended exclusively for the reproduction of sound recordings or not,

- b) for any audiovisual recording device – dependent on the technology (analogue, digital) and the fact whether such devices are intended exclusively for the reproduction of audiovisual or video recordings or not,
- c) for any blank audio or video recording media – dependent on the technology (analogue, digital) and maximum duration of sound or picture reproduction,
- d) for any photocopying device or other device with similar reproduction technique (fax, printer, photo printer and the like) – dependent on the maximum number of copies per minute and the possibility of color reproduction,
- e) for every single photocopy made for sale to natural persons.

#### Article 39

##### (Right of Access and Delivery of a Work)

- (1) The author shall have the right of access to the original or a copy of his work which is in the possession of another person if it is necessary for exercising his right of reproduction or transformation, and if it is not contrary to the justifiable interests of the possessor.
- (2) The author may require the possessor to hand over the original of the work of fine art or photography for the purpose of exhibiting it in Bosnia and Herzegovina, provided that he proves prevailing interest.
- (3) The possessor may condition the handover of the original, according to paragraph (2) of this Article, by posting of security or entering into an insurance agreement to the amount of the market value of the work.
- (4) The right of access to the work, as well as exhibiting the work shall be exercised at author's expense and with the least possible inconvenience caused to the possessor. In case of damage to the original or copies of the work, the author shall be liable for the entire damage, regardless of his fault.

### **CHAPTER IV. SUBSTANTIVE LIMITATIONS TO COPYRIGHT**

#### Article 40

##### (General Rule)

- (1) Substantive limitations to copyright shall be possible only in such cases as are stipulated in this Chapter, provided that the extent of such use of the works is limited by the intended purpose and that it is in conformity with good practices.
- (2) Substantive limitations to copyright shall extend *mutatis mutandis* to the related rights referred to in Articles 119, 127, 132, 136 and 139 of this Law.

## Section A. Statutory License

### Article 41 (Teaching Material and Periodicals)

- (1) Without the transfer of the economic right of the author, and subject to the payment of equitable remuneration, it shall be allowed to:
  - a) reproduce in reading books, textbooks, workbooks and examination material the excerpts from the works and individual works of photography, fine art, architecture, applied art, industrial and graphic design and cartography if these are disclosed works.
  - b) reproduce in periodical press or in the clippings therefrom individual published articles on current political, economic, religious and other similar current issues, unless it is explicitly prohibited by the author.
- (2) The provisions of paragraph (1) of this Article shall apply *mutatis mutandis* to the public communication of the said works.
- (3) In the case referred to in paragraphs (1) and (2) of this Article, the source and authorship shall be indicated if they are indicated on the work used.

## Section B. Free Use

### Article 42 (Disabled Persons)

The reproduction and distribution of a work shall be allowed for the benefit of disabled persons if such work is not available in the desired form, if the use thereof is directly related to the disability of such persons and limited to the extent of it, and if it is not done with the intention to gain direct or indirect economic advantage. In that case, the source and authorship shall be indicated if they are indicated on the work used.

### Article 43 (Temporary Reproduction)

The temporary reproduction of a work shall be permitted if it is a transient or incidental act constituting an integral and essential part of a technological process and has no independent economic significance, and the sole purpose of which is to allow for the transmission of the work in the network among third parties through an intermediary, or for the authorized use thereof.

### Article 44 (Informing the Public)

- (1) Within the scope required for informing the public on current events, it shall be permitted:
  - a) to reproduce the works appearing as integral parts of the current event on which the public is being informed,

- b) to prepare and reproduce clippings or abstracts from individual published newspaper and other similar articles in press reviews,
- c) to reproduce public political, religious and other speeches made before state or local government offices, religious institutions or during state or religious ceremonies,
- d) to freely use daily information and news having the nature of press release.

(2) The provisions of paragraph (1) of this Article shall apply *mutatis mutandis* to the public communication of the said works.

(3) In case of the use referred to in paragraph (1) of this Article, the source and authorship shall be indicated if they are indicated on the works used.

#### Article 45 (Teaching)

(1) For the purposes of teaching, it shall be permitted:

- a) to publicly perform disclosed works in the form of face-to-face teaching,
- b) to publicly perform disclosed works at free entrance school events, provided that performers receive no remuneration for their performance,
- c) to publicly communicate the broadcast school programs by means of loudspeakers, screens or similar technical devices which are located within the educational institution.

(2) In the case of the use referred to in paragraph (1) of this Article, the source and authorship must be indicated if they are indicated on the work used.

#### Article 46 (Private and other Internal Reproduction)

(1) Without prejudice to the rights referred to in paragraph (1) of Article 36 of this Law, the reproduction of a disclosed work shall be free if only one copy has been made and if the conditions referred to in paragraphs (2) and (3) of this Article have been met.

(2) A natural person may reproduce a work freely:

- a) on paper or similar medium, by means of photocopying or other photography technique making similar effect,
- b) on any other media, provided that he does it for private use, provided that the copies are not intended for or accessible by the public and provided that such reproduction is not aimed at gaining direct or indirect economic advantage.

(3) Public archives, public libraries, museums and educational or scientific institutions may reproduce a work freely on any media for their internal use if they do it from their own copy and if they do not intend on gaining direct or indirect economic advantage by such reproduction.

(4) Unless otherwise provided by this Law or a contract, and independently of the provisions of paragraphs (1), (2) and (3) of this Article, the reproduction of the following shall not be permitted:

- a) written works to the extent of the whole book – unless the copies of such book are out of print for a minimum of two years;
- b) graphic editions of musical works (sheet music) – except by means of handwritten transcription,
- c) electronic databases and computer programs,
- d) works of architecture, in the form of building an architectural structure,
- e) any work if such reproduction would be contrary to the ordinary exploitation of a work and detrimental to the legitimate interests of the author or copyright holder to an unreasonable extent.

Article 47  
(Quotations)

(1) It shall be permitted to literally quote passages and quotations from a disclosed work or individual disclosed works of photography, fine art, architecture, applied art and industrial and graphic design for the purpose of scientific research, critique, polemic, review, teaching and other reference to the extent justified by need for the intended illustration, confrontation or referral, and in accordance with good practices.

(2) In the case of the use referred to in paragraph (1) of this Article, the source and authorship must be indicated if they are indicated on the work used.

Article 48  
(Nonessential Elements)

The disclosed works representing nonessential elements in relation to the main work in which they are included or in relation to the object with which they are used together, shall be used freely during the exploitation of such main work or such object.

Article 49  
(Public Exhibitions or Auctions of Works)

(1) The organizers of public exhibitions or auctions of artistic or other works may freely use such works in connection with the promotion of such exhibitions or auctions to the extent necessary to achieve such purpose and provided that it is not done with the intention to gain direct economic advantage.

(2) In the case of the use referred to in paragraph (1) of this Article, the source and authorship must be indicated if they are indicated on the work used.

Article 50  
(Free Transformation)

The free transformation of a disclosed work shall be permitted if it concerns:

- a) a parody or caricature, provided that it shall not or may not create confusion with regard to the source of the work,



- b) private or other internal transformation which is not intended for and not available to the public,
- c) transformation in connection with the permitted use of the work which is caused by the nature itself or the manner of such use.

Article 51  
(Databases)

(1) The authorized user of a disclosed database or a copy thereof may freely reproduce or transform such database if it is needed for accessing its contents and for the regular use of such contents. If the user is authorized for only one part of the database, the reproduction and transformation of only such part shall be permitted.

(2) The contractual provisions which are contrary to paragraph (1) of this Article shall be rendered null and void.

Article 52  
(Works Permanently Located in Public Places)

(1) The free use of the works permanently located in squares, parks, streets or other places accessible by the public shall be permitted.

(2) The works referred to in paragraph (1) of this Article shall not be reproduced in three-dimensional form, used for the same purpose as the original work or used for gaining economic advantage.

(3) In the case of the use referred to in paragraph (1) of this Article, the source and authorship must be indicated if they are indicated on the work used.

Article 53  
(Official Procedures)

The free use of a work shall be permitted if it is indispensable in a specific concrete case for the purpose of the performance of duties related to public safety or any other official procedure.

Article 54  
(Testing of Devices)

(1) The plants or shops manufacturing or selling phonograms and videograms, devices for reproduction or public communication of phonograms and videograms or devices for audio and video reception, as well as the workshops repairing such devices, may freely reproduce and publicly communicate the works to the extent required for testing the proper functioning of such objects during the manufacturing or direct sale to the customers or for the repair thereof.

(2) The recordings of works made in accordance with the provision of paragraph (1) of this Article must be deleted without delay.

**CHAPTER V. TEMPORAL LIMITATIONS OF COPYRIGHT**

Article 55  
(General provision)

The copyright shall run for the life of its author and for 70 years after his death, unless otherwise provided by this Law.

Article 56  
(Co-authors)

If copyright is jointly owned by co-authors, the term under Article 55 of this Law shall be calculated from the death of the last surviving co-author.

Article 57  
(Anonymous and Pseudonymous Works)

(1) The copyright on an anonymous or pseudonymous work shall run for 70 years from the day of the lawful disclosure of the work.

(2) Where the pseudonym leaves no doubt as to the identity of the author or where the author reveals his identity during the term referred to in paragraph (1) of this Article, the term referred to in Article 55 of this Law shall apply.

Article 58  
(Collective Works)

Copyright on collective works shall run for 70 years from the day of the lawful disclosure thereof.

Article 59  
(Serial Works)

If this Law stipulates that the term of copyright shall be calculated from the day of the lawful disclosure of a work, and such work is disclosed in series (installments, volumes, editions, episodes or the like), the term of the protection shall be calculated for each of such parts separately.

Article 60  
(Collections)

(1) Insubstantial alterations in the selection, adjustment or arrangement of the contents of a collection shall not extend the term of copyright on the collection.

(2) Insubstantial alterations referred to in paragraph (1) of this Article shall be additions, omissions or other alterations with regard to the selection, adjustment, or arrangement of material, necessary to retain the original character and purpose of the collection, in the manner envisaged by its author.

Article 61  
(Right of Withdrawal)

The right of withdrawal under Article 84 of this Law shall run for the lifetime of the author.

Article 62  
(Commencement of Terms and the Effects of their Expiry)

(1) All the terms under this Chapter, with the exception of the term referred to in Article 61 of this Law, shall be calculated from January 1 of the year following the year in which the event as of which the commencement of a term is calculated occurred.

(2) A work shall cease to be copyrighted after the expiry of the terms of copyright prescribed by this Section.

**PART THREE – COPYRIGHT IN LEGAL TRANSACTIONS**

**CHAPTER I. GENERAL PROVISIONS**

Article 63  
(Inheritance of Copyright)

(1) Copyright as a whole, except for the right of withdrawal, shall be subject to inheritance. The provisions governing inheritance shall apply to the transfer of copyright by inheritance, unless otherwise provided by this Law.

Article 64  
(Transferability of Copyright)

(1) Copyright as a whole is not transferable.

(2) The author may not transfer the moral rights of the author to another person.

(3) The author may transfer to another person the individual economic entitlements (economic rights of the author) and other rights of the author by a contract or another legal transaction, unless otherwise provided by this Law.

Article 65  
(Execution)

(1) Copyright may not be subject to execution. Only the economic advantages resulting from the use of a work may be subject to execution.

(2) Execution shall not be permitted in respect of copyright in unfinished works and undisclosed originals.

Article 66  
(Legal Capacity)

(1) The rights granted by this Law to the author, including the right to judicial protection, shall belong to another copyright holder to the extent to which they have been transferred to him by law or a legal transaction, unless otherwise provided by this Law.

(2) The active legal capacity in the management of the rights of their members in judicial and other official proceedings shall belong, under this Law, to the collective management organizations, trade unions and professional associations established for the purpose of the protection of copyright and related rights.

## **CHAPTER II. RELATION BETWEEN COPYRIGHT AND THE RIGHT OF OWNERSHIP**

### Article 67 (General Rule)

Copyright is separate and independent of the right of ownership or other substantial rights in the material object on which or in which a work is fixed, unless otherwise provided by law.

### Article 68 (Separability of Legal Transactions)

(1) Disposing with individual economic rights of the author or other rights of the author in a work shall not affect ownership right in the material object on which or in which the work is fixed, unless otherwise provided by law or contract.

(2) Disposing with the ownership on the material object on which or in which a work is fixed shall not affect individual economic rights of the author or other rights of the author in such work, unless otherwise provided by law or contract.

### Article 69 (Protection of the Original Work)

(1) The owner of an original work who, given the circumstances of the case, might presume justified interest of the author in the preservation of such original from destruction shall inform the author, prior to the destruction of such original, of his intention and offer him to buy it back at the price equaling the cost of materials. If the return of the original is impossible, the owner shall enable the author to make a copy of the work in an appropriate manner.

(2) The owner of an architectural structure shall inform only the author of his intention to demolish it and allow the author, at his request, to access the structure in order to photograph it. The author shall have the right to request the return of a copy of the blueprint of the work of architecture at his expense.

(3) The owner of the material object on which or in which a work is fixed without his consent may destroy such material object without fulfilling the obligation referred to in paragraphs (1) and (2) of this Article.

Article 70  
(Transformation of a Constructed Architectural Structure)

(1) The author of a constructed work of architecture may not oppose to subsequent alterations to such structure if more than 5 years have elapsed since the completion of construction or issuance of an administrative use permit for the structure. If his name is indicated on the structure, the author shall have the right to request from the owner of the structure to put on it an appropriate written notice of the alterations to the work of architecture and the time of their making.

(2) If a work of architecture needs to be renovated, altered or otherwise remodeled due to inadequacy of in-built material or serious damages to the structure resulting from any cause, the owner of the structure shall be free to make alterations.

Article 71  
(Exhaustion of the Right of Distribution)

The right of distribution of an original or a copy thereof shall be exhausted for the territory of Bosnia and Herzegovina with the first transfer of ownership of such original or a copy of the work within Bosnia and Herzegovina by the author or a person having his consent.

Article 72  
(Community Property of Spouses)

Only the economic benefits derived from copyright shall be community property of the spouses.

**CHAPTER III. GENERAL PART OF COPYRIGHT CONTRACT LAW**

Article 73  
(Scope of Transfer of Copyright)

The transfer of individual economic rights of the author or other individual rights of the author may be limited as to the contents, territory or time.

Article 74  
(Exclusive and Non-Exclusive Transfer)

(1) The non-exclusive transfer of rights authorizes the holder to exploit a work in stipulated manner, in addition to the author and other right holders.

(2) The exclusive transfer of rights authorizes the holder to be the sole user of a work in stipulated manner, to the exclusion of the author and all other persons from the use thereof.

(3) The non-exclusive transfer of rights, contracted by the author prior to the subsequent exclusive transfer, shall have legal effect on the holder of exclusive rights, unless otherwise provided by contract between the author and holders of non-exclusive rights.

Article 75  
(Presumptions as to the Scope of Transfer)

- (1) Unless otherwise provided by this Law or a contract, it shall be deemed that non-exclusive transfer has been agreed upon, that the transfer is territorially limited to Bosnia and Herzegovina, and that is temporally limited to the term customary for the transfer of right of exploitation of the works of a specific category.
- (2) If the kind and scope of individual economic rights of the author being transferred to a holder are not specified in a contract, it shall be deemed that only such rights are transferred and only to such an extent as is necessary to achieve the purpose of the contract.

Article 76  
(Rule of Separation of Transfers)

- (1) Individual economic rights of the author or other individual rights of the author shall be transferred separately, unless otherwise provided by this Law or a contract.
- (2) The transfer of the right of reproduction of a work shall not include the transfer of the right of storing it in electronic form and the right of sound or visual fixation thereof, unless otherwise provided by this Law or a contract.
- (3) The transfer of the right of distribution of the copies of a work shall not include the transfer of the right of importation thereof, unless otherwise provided by this Law or a contract.
- (4) When transferring the right of rental of phonograms or videograms on which a work is fixed, the author retains the right to equitable remuneration for each rental. The author may not waive the right under this paragraph.

Article 77  
(Presumptions of Joint Transfer)

- (1) At transferring the right of reproduction of a work, it shall be deemed that the right of distribution of the copies of such work is transferred as well, with the exception of the importation thereof, unless otherwise provided in the contract.
- (2) At transferring the right of broadcasting a work, it shall be deemed that a broadcasting organization is also transferred unto the right of:
- a) making recordings of the work if such recordings are made with its own resources and for the purposes of its own broadcast, if the broadcast shall occur only once and if such recordings shall be destroyed within a month from the day of the broadcast (ephemeral recordings) at the latest,
  - b) delivering and storing ephemeral recordings in its own or in a public archive if such recordings have an exceptional documentary value. The broadcasting organization shall inform the author of such delivery and storing of recordings without delay.

Article 78

### (Subsequent Transfer of Rights)

(1) A person to whom the economic right of the author or other right of the author has been transferred may not further transfer such right to third parties without author's consent, unless otherwise provided in the contract.

(2) The consent referred to in paragraph (1) of this Article shall not be required if subsequent transfer of right results from status changes, bankruptcy or regular liquidation of the right holder.

(3) Where subsequent transfer is allowed for without the author's consent by law or by contract, the former and the new right holder shall be jointly liable to the author with respect to his claims founded upon this Law.

### Article 79

#### (Nullity of Certain Provisions on Transfer)

Any contractual provision shall be null and void if its purpose is transferring by the author to another person of:

- a) copyright as a whole,
- b) moral rights of the author,
- c) economic rights of the author in all his future works,
- d) economic rights of the author in yet unknown ways of exploitation of his work.

### Article 80

#### (Contract Form)

(1) Legal transactions by which economic rights of the author or other rights of the author are transferred or by which authorizations for the exploitation of the works are granted shall be in writing, unless otherwise provided by this Law.

(2) A legal transaction, which is not concluded in the form referred to in paragraph (1) of this Article, shall be valid if the parties to the contract fulfilled in whole or in substantial part the obligations arising from it. In such a case, all disputed and unclear provisions of the legal transaction with respect to the kind and scope of the rights transferred shall be construed in favor of the author.

### Article 81

#### (Remuneration)

(1) It shall be deemed that the transfer of economic rights of the author and other rights of the author is always subject to the payment of remuneration, unless proven otherwise.

(2) If the remuneration has not been determined, it shall be determined according to the usual amounts of remuneration payable for a particular category of works, according to the scope and duration of exploitation of a work and according to other circumstances of the case.

(3) If the income generated from the exploitation of a work is in manifest disproportion to the agreed or determined remuneration amount, the author shall have the right to demand the revision of contract for the purpose of determining his more equitable share in such income or re-determining the amount of remuneration.

(4) The author may not waive the right referred to in paragraph (3) of this Article.

Article 82  
(Records of Income and Profit)

(1) If the remuneration is agreed upon or determined in proportion to the income or profit derived from the exploitation of a work, the user of the work shall maintain appropriate books or other reliable records which will allow at any time for establishing the amount of income or profit generated.

(2) The user of a work shall inform the author of the amount of income or profit generated on a regular basis and to the extent necessary, as well as allow the author, at his request, to inspect the books or records referred to in paragraph (1) of this Article at least once a year.

Article 83  
(Termination of Contract due to Failure to Perform)

(1) The author may terminate by unilateral declaration the contract by which he made the exclusive transfer of an economic right of the author if the other party exploits such right to an insufficient extent or does not exploit it at all, and the author's legitimate interests are adversely affected as a result of that. The author may not invoke the provision of this paragraph if the causes of non-exploitation or insufficient exploitation are predominantly on his side.

(2) The termination of contract in accordance with the provision of paragraph (1) of this Article shall not be possible prior to the expiry of two years from the transfer of such right. If the exclusive right refers to newspaper articles, such term shall be six months.

(3) The author may terminate the contract only on condition that he offers to the right holder sufficient extra time for the commencement of the exploitation of right to a sufficient extent.

(4) Upon termination of contract in accordance with the provisions of this Article, the economic right of the right holder shall cease.

(5) The author may not waive the right referred to in paragraph (1) of this Article.

Article 84  
(Withdrawal Right)

(1) The author has the exclusive right to terminate by unilateral declaration the contract by which he made transfer of the economic rights of the author and deny further exploitation of his work, provided that he has serious moral reasons for doing so and provided that he indemnifies the holder of such rights prior to termination.



(2) The termination referred to in paragraph (1) of this Article shall enter into effect as of the day when the author secures the indemnification referred to in paragraph (1) of this Article.

(3) The holder of the right of exploitation shall communicate to the author the amount of damages within three months from the day of the receipt of termination notice. If the holder of the right of exploitation fails to do that, the termination notice shall enter into effect upon the expiry of that term.

(4) If the author subsequently decides that the work, with respect to which he exercised his withdrawal right, may be used again, he shall first offer the right of exploitation to the former right holder under the same terms and conditions as before.

(5) The author may not waive the right referred to in paragraph (1) of this Article.

(6) The provisions of this article shall not apply to computer programs, audiovisual works and databases.

## **CHAPTER IV. SPECIAL PART OF COPYRIGHT CONTRACT LAW**

### **Section A. Publishing Contract**

#### Article 85 (General Provisions)

(1) By entering into a publishing contract, the author undertakes to transfer to a publisher the right to reproduce his work by printing or other similar process and the right to distribute the copies of the work (publishing right), and the publisher undertakes to reproduce and distribute (publish) the work in the stipulated manner and pay to the author the stipulated remuneration.

(2) The publishing contract pertaining to a particular work may include the consent on a club edition, pocket edition, periodical publication in installments, transfer of the right of translation into a specified language, and the right of publishing the translated work, as well as other economic rights.

#### Article 86 (Contents of Contract)

(1) A publishing contract shall regulate in particular the type of transfer of rights, the extent and duration of transfer, the territory of application, and the time limit for publishing a work and the author's royalty.

(2) Unless otherwise provided by a publishing contract, the publisher shall have the right to only one edition of a work, or to one print run of the agreed number of copies of the work. Where the contract provides for the possibility of a repeated partial reproduction of copies up to the total number of copies agreed (finishing of printing), the publisher shall inform the author without delay on each partial reproduction and communicate to him all the data necessary for his efficient monitoring of performance of the publishing contract.

(3) If the remuneration is stipulated as a percentage of the retail price of the copies of the work sold, the publishing contract shall also contain the provision on a minimum number of copies at the first edition. Such provision shall not be required if the contract provides for a minimum remuneration payable by the publisher to the author, regardless of the number of copies sold.

(4) If the remuneration is agreed upon as a flat rate, the publishing contract shall contain the provision on the total number of copies to be printed. If the number of copies to be printed is not specified and unless otherwise arises from the circumstances of the case or good business practices, the publisher may reproduce a maximum of 500 copies of the work.

(5) If the time limit for publishing a work is not otherwise stipulated, it shall be one year from the delivery of a copy of the work by the author to the publisher in a suitable form.

Article 87  
(Entering into Contract through a Representative)

Author's representative may enter into a publishing contract only with respect to the works which are expressly specified in the power of attorney granted by the author.

Article 88  
(Exception to the Rule of a Written Form)

The publishing contract on publishing newspaper articles, drawings and other works in daily and periodical press does not need to be in writing.

Article 89  
(Presumption of Exclusivity)

(1) During the validity of a publishing contract, the author may not transfer to another person the right of publishing the same work within the same territory and in the same language, unless otherwise provided by the publishing contract.

(2) The author may transfer the right of publishing newspaper articles to several persons simultaneously, unless otherwise provided by the publishing contract.

Article 90  
(Publisher's Right of Priority)

(1) The publisher who acquired the right of publishing a work in written form shall have the right of priority in relation to other publishers offering the same conditions, with respect to publishing such work in electronic or any other form.

(2) The publisher who intends on exploiting the right referred to in paragraph (1) of this Article shall communicate his intention within 30 days from the receipt of author's written offer.

(3) The right of priority referred to in paragraph (1) of this Article shall run for three years from the expiry of the term agreed upon for publishing the work in printed form.

Article 91  
(Improvements and Alterations)

Unless otherwise provided by publishing contract, a publisher shall allow the author, in the case of new editions of a work, to make improvements or other alterations to the work, provided that it shall not alter the character of the work and cause disproportionate costs to the publisher.

Article 92  
(Destruction of the Original of a Work or an Edition due to Force Majeure)

(1) If a manuscript or other original of the work is destroyed after the delivery thereof to the publisher as a result of publisher's fault or force majeure, the author shall be entitled to remuneration which would have been due to him if the work had been published.

(2) If the prepared edition of a work is completely destroyed due to force majeure before being put into circulation, the publisher shall be entitled to prepare a new edition, and the author shall be entitled to remuneration only for the destroyed edition.

(3) If the prepared edition of the work is partially destroyed due to force majeure before being put into circulation, the publisher shall be entitled to reproduce, without paying remuneration to the author, only such number of copies of the work as were destroyed.

Article 93  
(Termination of Publishing Contract)

(1) A publishing contract shall terminate:

- a) at the death of the author prior to completion of the work,
- b) by selling out the copies of all stipulated editions,
- c) by the expiration of the term of the contract.

(2) If the publisher fails to publish the work within the stipulated time limit, the author may terminate a publishing contract and claim indemnification, and in addition to that, he shall have the right to retain the remuneration received or to claim payment of the stipulated remuneration.

(3) If the time limit for publishing the work is not specified by contract, the publisher shall publish the work within the appropriate time limit, and not later than one year from the day of delivery of the work to the publisher.

(4) The author may terminate a publishing contract if the publisher, after selling out one edition, does not proceed with publishing the new edition agreed upon within one year from the day of authors' request, unless otherwise provided by contract.

(5) Within the meaning of the provisions of this Article, an edition shall be deemed to have been sold out if the number of unsold copies of the work is less than 5% of the entire edition.

Article 94  
(Destruction of Copies of a Work)

(1) The publisher, who intends on selling the unsold copies of a work as recycling paper or destroying them in some other way, shall first offer the author to repurchase such copies at the price he would obtain for such sale.

(2) If the author declines the publisher's offer referred to in paragraph (1) of this Article or accepts it only for a certain number of copies, the publisher may freely sell the remaining copies of the work as recycling paper or destroy them.

**Section B. Contract for Performance**

Article 95  
(General Provision)

By a contract for performance, the author transfers to a user the right to public recitation, public performance or public stage presentation of his work, and the user undertakes to use the work in such manner as stipulated and pay remuneration to the author for it.

Article 96  
(Obligations of a User)

A user shall allow the author the access to the performance of his work, provide technical conditions for the performance which ensure the respect for moral rights of the author and deliver to the author or his representative the program, other publications and public reviews of the performance, unless otherwise provided by contract.

Article 97  
(Termination of Contract)

If a user fails to perform the work within the stipulated time limit, the author may terminate a contract for performance and claim indemnification, and in addition to that, he may retain the remuneration received or claim payment of the stipulated remuneration.

**Section C. Contract for the Creation of a Commissioned Work**

Article 98  
(Commissioned Work)

(1) By entering into a contract for the creation of a commissioned work, the author undertakes to create a certain work and deliver a copy of such work to the person commissioning the work, and the person commissioning the work undertakes to pay to the author the stipulated remuneration.

(2) The person commissioning a work shall be entitled to supervise the work and give the author instructions and requests as to the appearance and contents of the work if, by doing so, he does not interfere to an unreasonable extent with the author's freedom of scientific or artistic creation.

(3) The author shall retain copyright in a commissioned work, with the exception of the right of distribution, unless otherwise provided by this Law or by a contract. The regulations governing contract for service shall apply *mutatis mutandis* to the contract for a commissioned work.

#### Article 99 (Collective Work)

(1) A collective work shall be the work created on the initiative and in the organization of a natural or legal person (person ordering the work), whose creation involved a large number of persons, and which shall be published and used under the name of the person ordering it (encyclopedias, lexicons, collections, almanacs and the like).

(2) A separate contract shall be concluded for the creation of a collective work. If the conditions referred to in paragraph (1) of this Article are not met, such contract shall be null and void.

(3) Unless otherwise provided by the contract, it shall be deemed that all economic rights of the author and other rights of the author in a collective work are exclusively and unlimitedly transferred to the person ordering the work.

### **Section D. WORK CREATED DURING THE COURSE OF EMPLOYMENT**

#### Article 100 (Presumed Transfer of Rights to the Employer)

(1) If a work is created by an employee within the scope of his employment or following his employer's instructions, it shall be deemed that all the economic rights of the author are exclusively transferred to the employer for the period of five years from the day of the completion of such work, unless otherwise provided by a contract or another act.

(2) The rights of the employer shall cease after the expiry of the term referred to in paragraph (1) of this Article by reverting to the author, unless the employer requested, before the expiry of such term, a new unlimited exclusive transfer thereof. In such a case, the author is entitled to equitable remuneration for further exploitation of his work.

#### Article 101 (Special Provisions on the Transfer of Rights)

(1) Without prejudice to the provisions of Article 100 of this Law, the author retains the exclusive right to use the work created within the scope of his employment within his collected works.

(2) Without prejudice to the provisions of Article 100 of this Law, the economic rights of the author and other rights of the author in a database and in a collective work shall be deemed to have been exclusively and unlimitedly transferred to the employer, unless otherwise provided by the contract. The transfer of rights in the computer program created within the scope of employment is governed by the provision of Article 103 of this Law.

## **PART FOUR – SPECIAL PROVISIONS PERTAINING TO PARTICULAR TYPES OF WORKS**

### **CHAPTER I. COMPUTER PROGRAMS**

#### Article 102 (General Provisions)

- (1) A computer program, within the meaning of this Law, shall be a program in any form, including preparatory material for the creation thereof.
- (2) The ideas and principles underlying any element of a computer program, including the elements underlying its interface, shall not be protected.
- (3) Computer programs shall be protected as written works if they represent their author's own intellectual creation.

#### Article 103 (Computer Program Created Within the Scope of Employment or on Commission)

If a computer program is created by an employee within the scope of his employment or following the instructions of his employer, or if it is created by an author under the contract for commissioned work, it shall be deemed that all the economic rights of the author in such program are exclusively and entirely transferred to the employer or to a person commissioning it, unless otherwise provided by a contract.

#### Article 104 (Rights of the Author of a Computer Program)

- (1) Unless otherwise provided by Articles 105 and 106 of this Law, the author of a computer program shall have the exclusive rights which include:
  - a) reproduction of the components or an entire computer program by any means and in any form, regardless of whether such reproduction is temporary or permanent; if the loading, displaying, running, transmission or storage of the program necessitates its reproduction, such acts shall be subject to authorization by the author of the computer program,
  - b) translation, adaptation, arrangement or any other transformation of a computer program and the reproduction of the results of such transformations, provided that the rights of the person who transforms the program remain intact,
  - c) distribution of the original or the copies of a computer program in any form, including the rental thereof.

(2) The author may transfer the rights referred to in paragraph (1) of this Article to third parties by a contract.

Article 105  
(Substantive Limitations to Author's Rights)

(1) A lawful user of a computer program may execute, without author's permission, the acts referred to in items a) and b) paragraph (1) of Article 104 of this Law, including the removal of errors, if it is necessary for the use of the computer program in accordance with its intended purpose.

(2) An authorized user of a computer program may reproduce, without author's permission, a maximum of one backup copy of the program if it is necessary for the use thereof.

(3) An authorized user of a copy of a computer program may observe, study or test, without author's permission, the functioning of the program in order to find out the ideas and principles underlying any element of such program if he does so while performing the loading, displaying, running, transmission or storing thereof which he is entitled to.

(4) The provisions of this Law pertaining to private and other internal reproduction (Article 46) and the right of withdrawal (Article 48) shall not apply to computer programs.

(5) Computer programs shall not be publicly lent (Article 34), unless otherwise provided by a contract with their author.

(6) The contractual provisions, which are intended to limit the rights of a lawful user contrary to paragraphs (2) and (3) of this Article, shall be null and void.

Article 106  
(Decompilation)

(1) If the reproduction of a computer code and the translation of its form, within the meaning of the provision of items a) and b) of paragraph (1) of Article 104 of this Law, are indispensable to obtain the information necessary to achieve the interoperability of an independently created program with other programs, the authorization of the right holder shall not be required under the following conditions:

- a) if such acts are performed by a licensee or another person who is entitled to use a copy of the program or a person who is authorized to do so on their behalf,
- b) if the information necessary to achieve interoperability were not previously readily available to the persons referred to in item a) of this paragraph, and
- c) if such acts are confined only to such parts of the original program which are necessary to achieve interoperability.

(2) The information obtained by applying the provision of paragraph (1) of this Article shall not be:

- a) used for goals other than achieving the interoperability of an independently created computer program,

- b) released to another persons, except when it is necessary for achieving the interoperability of an independently created program,
- c) used for the development, production or marketing of another program substantially similar in its expression or for any other act infringing copyright.

(3) The provisions of this article shall not be construed in such a way as to allow for their application to be contrary to the normal exploitation of a computer program or to unreasonably prejudice the right holder's legitimate interests.

4. The contractual provisions which are contrary to the provisions of this Article shall be null and void.

#### Article 107 (Special Protection Measures)

The following acts shall particularly be considered the infringement of copyright in a computer program:

- a) any distribution of a copy of a computer program which is known or reasonably doubted to infringe copyright,
- b) the possession of a copy of a computer program which is known or reasonably doubted to infringe copyright for commercial purposes.

#### Article 108 (Application of Other Legal Regulations)

The provisions of this Section shall not affect the application of other regulations governing computer programs, such as regulations concerning patents, trademarks, protection of layout designs of integrated circuits, competition and trade secret or contractual obligations.

## **CHAPTER II. AUDIOVISUAL WORKS**

#### Article 109 (General Provision)

Audiovisual works, within the meaning of this Law, shall be cinematographic, television, documentary, animated, advertising films and short music videos, and other audiovisual works expressed by means of moving image sequence, with or without sound, regardless of the kind of medium in which they are fixed.

#### Article 110 (Right of Audiovisual Adaptation)

(1) The right of audiovisual adaptation shall be the exclusive right to transform the original work or include it in an audiovisual work.

(2) It shall be deemed that by entering into a contract for audiovisual adaptation the author of an original work transfers to a film producer the right of transformation and inclusion of the original work in an audiovisual work, his economic rights of the author in such audiovisual work, the translation and audiovisual transformations thereof and in the



photographs made in connection with the production of the audiovisual work, unless otherwise provided in the contract.

(3) Without prejudice to the provision of paragraph (2) of this Article, the author of the original work shall retain:

- a) the exclusive right to a new audiovisual adaptation, but only after the expiry of ten years from entering into the contract referred to in paragraph (2) of this Article,
- b) the exclusive right to further transformation of an audiovisual work into any other artistic form,
- c) the right to adequate remuneration from a film producer for each rental of the copy of the audiovisually adapted work.

(4) The author may not waive the rights referred to in paragraph (3) of this Article.

#### Article 111 (Co-Authors of an Audiovisual Work)

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

- a) author of the adaptation,
- b) principal director,
- c) author of the screenplay,
- d) author of the dialogue,
- e) director of photography,
- f) composer of the film music created specially for the use in that work.

(2) If a drawing or an animation is the essential element of an audiovisual work, the principal draftsman or the principal animator shall be considered co-authors of such work.

#### Article 112 (Authors of Contributions to an Audiovisual Work)

The composer of music, principal draftsman and principal animator, who are not considered as co-authors of an audiovisual work within the meaning of the provision of Article 111 of this Law, as well as the scenographer, costumographer, make-up artist and film editor, shall own the rights in their respective individual contributions to the audiovisual work (authors of contributions).

#### Article 113 (Contract for Film Production)

(1) The relations among a film producer and the co-authors of an audiovisual work and the authors of contributions to such work, as well as the relations among the authors themselves, shall be regulated by a film production contract which shall be in writing.

(2) It shall be deemed that by entering into a film production contract, the co-authors transfer to a film producer, exclusively and unlimitedly, all their economic rights in an audiovisual work, the translation and audiovisual transformations thereof and in the

photographs made in connection with the production of the audiovisual work, unless otherwise provided by the contract.

(3) The co-authors of an audiovisual work shall be entitled to a special remuneration for each transferred economic right of the author or other right of the author.

(4) It shall be deemed that by entering into a film production contract, the authors of contributions transfer to a film producer, exclusively and unlimitedly, the right to use their contributions for the completion of an audiovisual work.

(5) Without prejudice to the provisions of paragraphs (1), (2) and (4) of this Article:

- a) the co-authors shall retain the exclusive right to further transformation of an audiovisual work into another artistic form;
- b) the authors of contributions shall retain the right to use separately their respective contributions to an audiovisual work, provided that such use does not prejudice the rights of a film producer;
- c) the co-authors shall retain the right to an equitable remuneration from a film producer for each rental of the copies of an audiovisual work.

(6) The co-authors and the authors of contributions may not waive the rights referred to in paragraph (5) of this Article.

(7) A film producer shall send to the co-authors, at least once a year, a report on the amount of income earned for each form of the authorized use of an audiovisual work.

#### Article 114 (Completion of an Audiovisual Work)

(1) An audiovisual work shall be deemed completed when, in accordance with the contract entered into by the principal director and the film producer, the first standard copy of the work, which is the subject matter of the film production contract, is made.

(2) The destruction of the master copy of the first standard copy of an audiovisual work shall be prohibited.

(3) If any of the co-authors or authors of contributions refuses to continue to collaborate in the creation of an audiovisual work or if he is unable to continue such collaboration due to force majeure, he may not oppose to the use of the contribution he has already made for the completion of such work. Such author shall enjoy the respective author's rights in the contribution to the audiovisual work already made.

#### Article 115 (Termination of Contract)

(1) If a film producer fails to complete an audiovisual work within five years from entering into the film production contract or if he does not start to exploit the completed audiovisual work within two years from the day of the completion thereof, the co-authors may demand that the contract be terminated, unless another term has been stipulated.

(2) In the case referred to in paragraph (1) of this Article, the co-authors of a work and authors of contributions shall retain the right to remuneration.

## **PART FIVE - RELATED RIGHTS**

### **CHAPTER I. RIGHTS OF PERFORMERS**

#### **Article 116 (Performers)**

(1) Performers, for the purposes of this Law, are actors, singers, musicians, dancers and other persons who act, sing, play, declaim, interpret or otherwise perform works or expressions of folklore.

(2) Performers, within the meaning of paragraph 1 of this Article, are also stage directors, orchestra conductors, choir directors and variety and circus artists.

#### **Article 117 (Representative of a Group of Performers)**

(1) The performers who perform in a group (members of an orchestra, choir, dancing or theatrical troupe, ensemble and the like) shall authorize one of their members to be their representative for granting the permissions necessary for performance and management of the performers' rights.

(2) The power of attorney referred to in paragraph 1 of this Article shall be in writing, and it shall be valid if majority consent of all members constituting the group of performers is obtained.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to conductors, soloists, stage directors and lead actors who are not members of the group, unless otherwise specified in a contract between them and the group .

#### **Article 118 (Moral Rights of Performers)**

(1) A solo performer of the works or expressions of folklore shall have the exclusive right to be recognized and indicated as the performer, that is, to decide whether his name or other identification shall be indicated during the use of his performance.

(2) If the works or expressions of folklore are performed by a group of performers, the right referred to in paragraph (1) of this Article shall belong to the group as a whole, and to the soloists.

(3) Performers shall have the exclusive right to object to any alteration or use of their performance that would be prejudicial to their honor and reputation.

#### **Article 119**

### (Economic Rights of Performers)

A performer shall have the exclusive right:

- a) to fix his live performance,
- b) to reproduce, directly or indirectly, the fixation of his performance in whatever manner and form,
- c) to transmit his live performance to the public,
- d) to broadcast his live performance, with the exception of re-broadcasting by the organization or with the consent of the organization which carries out broadcasting;
- e) to make fixations of his performance available to the public;
- f) to distribute copies of the fixation of his performance;
- g) to rent copies of the fixation of his performance.

### Article 120 (Remuneration for Private Use)

A performer shall have the right to remuneration for private or other internal reproduction, according to paragraph (2) of Article 36 of this Law.

### Article 121 (Remuneration for Public Communication and Rental of the Fixation of Performance)

(1) A performer shall have the right to a portion of the remuneration which the producer of a phonogram is entitled to for public communication of a phonogram in which his performance is fixed.

(2) A performer who transfers his right of renting a fixation of his performance to a phonogram or film producer shall retain the right to equitable remuneration. The performer may not waive the right to equitable remuneration for rental.

### Article 122 (Presumed Transfer to a Film Producer)

(1) By entering into a film production contract, it shall be deemed that a performer transferred to a film producer, exclusively and unlimitedly, all his performer's economic rights pertaining to his performance, unless otherwise provided by contract.

(2) A performer is entitled to adequate remuneration from a film producer for each economic right transferred under the provisions of paragraph (1) of this Article.

(3) A performer may not waive the right referred to in paragraph (2) of this Article.

### Article 123 (Use of Performance for the Completion of an Audiovisual Work)

If any of the performers refuses to complete his contribution to an audiovisual work, or if he is not able to proceed with the performance due to force majeure, he may not object to the use of the contribution already made for the completion of the audiovisual work. Such performer shall have respective rights in the contribution to the audiovisual work already made.

Article 124  
(Performance Given within the Scope of Employment)

- (1) A performance given within the scope of employment shall be the performance given by a performer-employee during the course of employment with certain employer, while executing his duties, or under the instructions of his employer.
- (2) The provisions of Article 100 of this Law shall apply *mutatis mutandis* to the performance given within the scope of employment.

Article 125  
(Term of Protection)

- (1) The rights of performers shall run for 50 years computed from the day of performance. If the fixation of a performance is lawfully published or lawfully communicated to the public within that period of time, the rights of performers shall run for 50 years computed from the day of first publication or first communication, whichever is earlier.
- (2) The term referred to in paragraph (1) of this Article shall start to run on January 1 of the year following the year in which the event from which the beginning of term is calculated occurred.

## **CHAPTER II RIGHTS OF PRODUCERS OF PHONOGRAMS**

Article 126  
(Producer of a Phonogram)

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

Article 127  
(Rights of Producers of Phonograms)

The producer of a phonogram shall have the exclusive right:

- a) to reproduce his phonograms, directly or indirectly, in whatever manner and form;
- b) to distribute his phonograms;
- c) to rent his phonograms;
- d) to make his phonograms available to the public.

#### Article 128

##### (Right to Remuneration for Communication to the Public)

(1) If a phonogram published for commercial purposes is used for broadcasting or another form of communication to the public, the user shall pay to the producer of the phonogram a single equitable remuneration for each single use.

(2) The producer of a phonogram shall pay a half of the remuneration referred to in paragraph (1) of this Article to the performers whose performance is fixed on the phonogram used, unless different share amounts are stipulated by the contract between them.

(3) For the purposes of this Article, the phonograms made available to the public in such a way as to allow an individual the access to such phonograms from a place and at a time chosen by him shall be considered as phonograms published for commercial purposes.

(4) The right to remuneration for the communication of a phonogram to the public shall run for 50 years from the date of the publication thereof, provided that it is still protected pursuant to Article 125 of this Law.

#### Article 129

##### (Remuneration for Private Use)

Pursuant to paragraph (2) of Article 36 of this Law, the producer of a phonogram shall have the right to adequate remuneration for each reproduction of his phonograms for private or other internal use.

#### Article 130

##### (Term of Protection)

(1) The rights of the producers of phonograms shall run for 50 years from the day of first fixation. If a phonogram is lawfully published within that period, the rights shall run for 50 years from the day of first publication. If a phonogram is not lawfully published within that period, but it is lawfully communicated to the public, the rights shall run for 50 years from the day of such first communication to the public.

(2) The time limit referred to in paragraph (1) of this Article starts to run as of January 1 of the year following the year in which the event from which the beginning of time limit is calculated occurred.

## **CHAPTER III RIGHTS OF FILM PRODUCERS**

### **Article 131 (Film Producer and Videogram)**

A film producer (producer of a videogram) shall be the natural person or legal entity who or which, on his or its own behalf, takes the initiative, raises funds, organizes, manages and assumes responsibility for the fixation of an audiovisual work or a sequence of moving images, accompanied by sounds or without sounds (videogram).

### **Article 132 (Rights of a Film Producer)**

A film producer shall have the exclusive right:

- a) to reproduce his videograms,
- b) to distribute his videograms,
- c) to rent his videograms,
- d) to publically present his videograms,
- e) to make his videograms available to the public.

### **Article 133 (Remuneration for Private Use)**

Pursuant to paragraph (2) of Article 36 of this Law, a film producer shall have the right to adequate remuneration for sound and visual reproduction of his videograms for private or other internal use.

### **Article 134 (Term of Protection)**

The rights of a film producer shall run for 50 years from the day of the first fixation of a videogram. If the videogram is lawfully published or lawfully communicated to the public within that period, the rights shall run for 50 years from the day of such first publication or the day of such first communication, whichever is earlier.

## **CHAPTER IV RIGHTS OF BROADCASTING ORGANIZATIONS**

### **Article 135 (Broadcasting Organization and Broadcasts)**

(1) A broadcasting organization shall be the legal entity which takes the initiative and has the responsibility for the production of a broadcast.

(2) A broadcast shall be an audio, visual, or audio-visual contents turned into electrical, electromagnetic or other signal broadcasted for the purpose of communication to the public.

### **Article 136 (Rights of Broadcasting Organizations)**

A broadcasting organization shall have the exclusive right:

- a) to rebroadcast its broadcasts by wire or wireless means,
- b) to secondary use of its broadcasts, within the meaning of Article 31 of this Law if it involves the payment of entrance fee,
- c) to fix its broadcasts,
- d) to reproduce the fixations of its broadcasts,
- e) to distribute the fixations of its broadcasts,
- f) to make its broadcasts available to the public.

Article 137  
(Term of Protection)

The rights of a broadcasting organization shall run for 50 years from the day of first broadcast.

## **CHAPTER V. RIGHTS OF PUBLISHERS**

Article 138  
(Remuneration for Private Use)

- (1) Pursuant to paragraph (3) of Article 36 of this Law, publishers shall have the right to remuneration for the reproduction of their editions for private or other internal use.
- (2) The right to remuneration referred to in paragraph (1) of this Article shall run for 50 years from the lawful publication of a work.

Article 139  
(Unpublished Works in Public Domain)

- (1) A person who lawfully publishes or communicates to the public for the first time a yet undisclosed work in which copyright has already expired shall acquire the rights equivalent to the economic rights of the author and other rights of the author under this Law.
- (2) The rights referred to in paragraph (1) of this Article shall run for 25 years from the first lawful publication of a work or the first lawful communication to the public.

Article 140  
(Critical and Scientific Editions of Works in Public Domain)

- (1) A person who prepares the edition of a work in which copyright has already expired, and which is a result of scientific research or adaptation, and which substantially differs from the existing editions of such work, shall acquire the rights equivalent to the economic rights of the author and other rights of the author under this Law.



(2) The rights referred to in paragraph (1) of this Article shall run for 30 years from the first lawful publication of the work.

## **CHAPTER VI RIGHTS OF MAKERS OF DATABASES**

### **Article 141 (Database and Maker of a Database)**

(1) A database, within the meaning of this Law, shall be a collection of independent works, data, or other material in any form, arranged in a systematic or methodical way and individually accessible through electronic or other means, whereby the obtaining, verification or presentation of its contents required a qualitatively or quantitatively substantial investment of human, technical or financial resources.

(2) A database producer shall be a legal entity or natural person which or who takes the initiative and risk of the investment of resources, referred to in paragraph (1) of this Article, in the creation thereof.

(3) The protection of a database or the contents thereof according to the provisions of this Section shall be independent from its protection by copyright or other rights. The inclusion of the material in a database and the use thereof shall not prejudice the rights existing in respect of such material.

### **Article 142 (Scope of Protection)**

(1) The protection of a database includes:

- a) the entire contents of a database,
- b) any qualitatively or quantitatively substantial part of the contents of a database,
- c) qualitatively or quantitatively insubstantial parts of the contents of a database if such parts are used repeatedly and systemically, which is in conflict with a normal exploitation of the database or which is unreasonably prejudicial to the legitimate interests of its producer.

(2) The protection shall not apply to computer programs used in the making of databases or for the operation of databases available in electronic form.

### **Article 143 (Rights of the Maker of a Database)**

The producer of a database shall have the exclusive right:

- a) to reproduce his database,
- b) to distribute the copies of his database,
- c) to rent the copies of his database,
- d) to make his database available to the public,
- e) to other forms of communication of his database to the public.

Article 144  
(Rights and Obligations of Lawful Users)

- (1) The lawful user of a disclosed database, or a copy thereof, may freely use qualitatively and quantitatively insubstantial parts of its contents for any purpose. If the user is authorized only with regard to a part of the database, this paragraph shall apply solely to such part.
- (2) The lawful user of a disclosed database shall not perform the acts which are contrary to the customary use of such database or which prejudice the legitimate interests of its producer to an unreasonable extent.
- (3) The lawful user of a disclosed database shall not prejudice copyright or related rights with respect to a work or a subject matter of protection which are contained in the database.
- (4) The contractual provisions which are contrary to the provisions of this Article shall be null and void.

Article 145  
(Limitations to the Rights of the Producer of a Database)

- (1) The lawful user of a disclosed database may freely use substantial parts of the contents thereof in case of:
  - a) private or another internal use of a non-electronic database if the conditions under Article 46 of this Law are met,
  - b) teaching if the conditions under Article 45 of this Law are met.
- (2) The use of a database shall be free in carrying out the duties related to public safety and in official procedures if the conditions under Article 53 of this Law are met.

Article 146  
(Term of Protection)

- (1) The rights of the producer of a database shall run for 15 years from the completion of the creation thereof. If the database is lawfully published within such term, the rights shall run for 15 years from such first publication.
- (2) Each qualitatively or quantitatively substantial modification of the contents of a database, including the modification resulting from the accumulation of gradual updates, deletions or alterations, which may be considered a qualitative or quantitative new substantial investment in such database, shall effect the commencement of a new term of protection referred to in paragraph (1) of this Article.

## **PART SIX EXERCISE OF RIGHTS**

### **CHAPTER I GENERAL PROVISIONS**

#### Article 147 (Ways to Exercise Rights)

- (1) The author may exercise his rights by himself or through a representative. The representative may be a natural person or a legal entity that the author empowers for representation.
- (2) The authors' rights may be managed for each single work (individual management of rights) or for more works of more authors jointly (collective management of rights).
- (3) The collective management of rights is governed by a separate law with the appropriate application of the provisions of this Law.

#### Article 148 (Individual Management of Rights through a Representative)

- (1) Individual management of authors' rights through a representative involves representing authors in legal transactions with users or persons ordering their works, including the collection of author's remunerations, as well as representing authors in judicial or other official proceedings for the protection of their authors' rights.
- (2) If an author manages his author's rights before a court or other state authority through the representative who is a legal entity, such representative shall have the right to claim remuneration for his services and the reimbursement of costs incurred in connection with rendering such services, according to the applicable schedule of attorney fees, provided that the authorized person of the legal entity fulfils the conditions for representation before courts or other state authorities.

#### Article 149 (Related Rights)

The provisions of this Chapter shall apply *mutatis mutandis* to related rights.

### **CHAPTER II. PROTECTION OF RIGHTS**

#### **Section A. General Provisions**

#### Article 150 (Persons Entitled to Protection)

- (1) A person whose rights under this Law have been infringed may seek protection of such rights and indemnification from the infringer according to the general rules on indemnification, unless otherwise provided by this Law.

(2) Equal protection may be sought by a person facing an actual threat of infringement of his rights under this Law.

#### Article 151

##### (Solidarity of Persons Entitled to Protection of and of Infringers)

(1) If several persons are entitled to seek protection of a right, each of them may seek protection of such right in its entirety.

(2) If several persons infringe the right under this Law, each of them shall be liable for the infringement in entirety.

#### Article 152

##### (Protection of Technological Measures)

(1) A person shall be deemed to have infringed the exclusive rights under this Law if he circumvented effective technological measures for the protection of works or subject matters of related rights.

(2) A person shall be deemed to have infringed the exclusive rights under this Law if he manufactured, imported, distributed, sold, rented, advertised for sale or rented or possessed for commercial purposes a technology, device, product, a component or a computer program, or if he rendered services:

- a) which are promoted, advertised or marketed to enable the circumvention of the effective technological measures, or
- b) which have only limited commercial significance or use for purposes other than those of circumventing the effective technological measures, or
- c) which are primarily designed, manufactured, created, assembled, adapted or made for the purpose of circumventing the effective technological measures.

(3) "Technological measures", within the meaning of this Law, shall mean any technology, device, medium, product, a component or a computer program which are intended, in the normal course of their application, to prevent or restrict acts which are not permitted by the right holder under this Law. Such measures shall be considered "effective" when the right holders under this Law restrict the use of their copyright works or subject matters of related rights by means of access control or protective methods, such as encrypting, deformation or other transformation of a work or a subject matter of related rights or by a reproduction control mechanism, ensuring the achievement of the protection objective.

(4) The provisions of this Article shall apply *mutatis mutandis* also to a technology, device, medium, product, a component or a computer program, designed for the removal or alteration of electronic rights management information (Article 153).

(5) The acts referred to in the provisions of this Article shall not constitute the infringement of rights if they are carried out in a single concrete case for the execution of duties related to public safety or any other official procedure.

#### Article 153

#### (Protection of Rights-Management Information)

(1) It shall be deemed that a person has infringed exclusive rights under this Law if he performs, without permission of a right holder, any of the following acts which cause, enable, facilitate or conceal the infringement of rights under this Law:

- a) removal or alteration of any electronic rights management information,
- b) reproduction, distribution, importation for further distribution, rental, making available or communicating to the public copyright works or subject matters of related rights, from which the electronic rights management information has been removed or altered.

(2) The rights management information referred to in paragraph (1) of this Article is the information which is furnished by a right holder and which identifies: a work or the subject matter of the protection of a related right, the author or another right holder, the conditions for the use of the work, as well as numbers or codes representing such information if they are indicated on the copy of the work or subject matter of a related right or if they appear in connection with the communication thereof to the public.

#### Article 154

##### (Obligation to Use Indications)

A right holder, importer or another person applying technological measures or who has authorization and possibility to remove them must indicate, clearly and in a visible place, on each copy of a work or subject matter of related rights, manufactured or imported for commercial purposes, the application of technological measures under this Law, and state:

- a) information pertaining to the applied technological measure and the effects thereof;
- b) his name or the company's name, and the contact address to enable the effective implementation of Article 155 paragraph (1) of this Law.

#### Article 155

##### (Exercise of Substantive Limitations on Rights)

(1) A right holder who uses technological measures, under this Law, shall enable the persons having lawful access to a copy of a work or subject matter of related rights at their request, in the shortest possible time, to exercise substantive limitations to the rights referred to in paragraph (3) of this Article by means of alteration or removal of a technological measure or in some other way.

(2) Where a right holder fails to act in accordance with the provision of paragraph (1) of this Article, claiming that the conditions under paragraph (3) of this Article do not exist, the persons seeking to exercise substantive limitations to rights may request mediation. Mediation may be requested without mediation agreement. The provisions on mediation of the law governing collective management of copyright and related rights shall be applied *mutatis mutandis* in the mediation procedure.

(3) Taking into account the conditions under this Law, including the possibility of the payment of remuneration, substantive limitations to rights, under the provisions of paragraph (1) of this Article, may be exercised in the case of:

- a) use by disabled persons (Article 42),
- b) use for the purpose of teaching (Article 45),
- c) private or other internal reproduction (Article 46),
- d) official procedures (Article 53),
- e) ephemeral fixations by broadcasting organizations (paragraph (2) of Article 77).

(4) Paragraphs (1), (2), and (3) of this Article shall not apply to technological measures used for:

- a) the fulfillment of right holder's obligations under paragraph (1) of this Article, including the implementation of contracts concluded for such purpose,
- b) copyrighted works used within the meaning of the provisions of Article 32 of this Law, on the basis of a relevant contract.

## **Section B Judicial Protection**

### Article 156 (Scope of the Right to Protection)

(1) If an exclusive right under this Law is infringed, the holder of such right may seek:

- a) establishment of the infringement committed,
- b) prohibition of the continuation of infringement and of future similar infringements by means of cessation or refraining from the acts infringing such right,
- c) remedying the situation caused by infringement;
- d) withdrawal of the objects of infringement from the channels of commerce, respecting the interests of third innocent parties;
- e) complete removal of the objects of infringement from the channels of commerce,
- f) destruction of the objects of infringement;
- g) destruction of the means which are exclusively or predominantly intended or used for infringing acts and which are owned by infringers,
- h) surrender of the objects of infringement to the right holder against the payment of production costs,
- i) publication of the judgment.

(2) When deciding claims under items c) to h) of paragraph (1) of this Article, the court shall take into account all the circumstances of the case, in particular proportionality between the seriousness of infringement and the claim, as well as the interest of the entitled person in ensuring the effective protection of rights. The provisions of items c) and f) of paragraph (1) of this Article shall not apply to constructed architectural structures, unless the destruction of a structure is purposeful considering all the circumstances of the case, and in particular lesser value of the structure.

(3) In the proceedings against persons whose services were used for the infringement of rights, and the infringement has already been validly established in the proceedings against a third party, the infringement of rights shall be presumed to exist.

Article 157  
(Indemnification)

(1) The general rules governing indemnification and liability for damages shall apply to all infringements of rights under this Law, unless otherwise provided by this Law.

(2) The infringer of a right shall indemnify the right holder in the amount determined pursuant to general rules governing indemnification, or in the amount equivalent to the stipulated or customary remuneration for the lawful use of works or subject matters of related rights of certain kind.

Article 158  
(Penalty)

(1) If the economic right of the author under this Law is infringed intentionally or by gross negligence, the right holder may claim indemnification against the infringer up to three times the amount of stipulated remuneration, and if it is not stipulated, of adequate customary remuneration.

(2) When deciding a claim for the payment of penalty, the court shall take into account all the circumstances of the case, in particular the extent of the incurred damage, the degree of infringer's guilt, the amount of stipulated or customary remuneration, and the preventive purpose of the penalty.

(3) If the incurred damage is in excess of the amount of penalty referred to in paragraph (1) of this Article, the right holder is entitled to claim the difference up to the amount of full indemnification.

Article 159  
(Non-Material Damage)

Independently of indemnification for material damage, as well as in the case that there is no such damage, the author or the performer may claim the award of equitable monetary satisfaction for mental anguish suffered as a result of the infringement of moral rights. When deciding the claim, the court shall take into account all the circumstances of the case, in particular the intensity and duration of mental anguish caused by the infringement of moral rights.

Article 160  
(Provisional Measures)

(1) The court shall order a provisional measure to secure claims under the provisions of this Law, if the claimant renders probable:

- a) that he is the right holder under this Law, and
- b) that his right has been infringed or that there is an actual threat of infringement.

- (2) The right holder shall also render probable one of the following assumptions:
- a) that a danger exists that the enforcement of claim will be made impossible or considerably impeded;
  - b) that a provisional measure is necessary in order to prevent the occurrence of damage which will be difficult to repair later, or
  - c) that by the adoption of a provisional measure, which would later in the course of the proceedings prove to be unfounded, the alleged infringer would not suffer more detrimental consequences than those that would be suffered by the right holder if such provisional measure was not adopted.
- (3) The right holder who proposes the ordering of a provisional measure without prior notification and hearing of the opposite party shall render probable, in addition to the requirements under paragraphs (1) and (2) of this Article that any delay in ordering a provisional measure would cause to the right holder damage difficult to repair. In the case that provisional measure is ordered under the provisions of this paragraph, the court shall serve the decision on provisional measure to the opposite party immediately after the execution thereof.
- (4) The right holder shall not have to prove the existence of danger that the enforcement of claim will be made impossible or considerably impeded if he renders probable that the proposed provisional measure will cause to the alleged infringer only insignificant damage. The danger shall be deemed to exist when the claims are to be enforced abroad.
- (5) To secure claims under paragraph (1) of this Article, the court may order any provisional measure by which the purpose of security can be achieved, and in particular:
- a) prohibit the alleged infringer from proceeding with actions which infringe the right under this Law;
  - b) seize, remove from circulation and take into custody the objects of infringement and the means of infringement which are exclusively or predominantly intended or used for the commission of infringements.
- (6) If the measure was ordered prior to filing of the claim, the court shall in its order specify a time limit within which the claimant must bring an action for the justification of such measure. The time limit may not be longer than 20 working days or 31 calendar days from the day of the service of the order to the claimant, whichever expires later.
- (7) The court shall decide on the opposition against the order of a provisional measure within 30 days following the filing of the answer to the opposition or the expiry of the time limit for the filing such answer.
- (8) The provisions of the law on civil procedure shall be applied in the procedure for ordering a provisional measure, unless otherwise stipulated by this Law.

Article 161  
(Preservation of Evidence)



(1) The court shall issue an order to preserve evidence if the applicant presents to the court reasonable evidence that:

- a) he is the right holder under this Law,
- b) his right has been infringed or that there is an actual threat of infringement,
- c) the evidence of infringement shall be destroyed or impossible to be presented later.

(2) The right holder who applies for the order to preserve evidence without prior notification and hearing of the opposite party shall, in addition to the requirements under paragraph (1) of this Article, render probable that there is a danger that the evidence of infringement shall be destroyed or impossible to present later, due to the acts of the opposite party. In the case of ordering the preservation of evidence pursuant to the provisions of this paragraph, the court shall serve its order for the preservation to the opposite party immediately after the evidence is presented.

(3) By the decision referred to in paragraph (1) of this Article, the court may order the presentation of any evidence, and in particular:

- a) inspection of premises, business records, inventory, databases, computer memory units, or other material objects,
- b) seizure of samples of the objects of infringement,
- c) examination and surrender of documents,
- d) appointment and examination of experts,
- e) examination of witnesses.

(4) The preservation of evidence may also be sought after the completion of proceedings by a final decision if it is necessary for the institution of proceedings on the grounds of extraordinary remedies or during such proceedings.

(5) In the proceedings for the preservation of evidence, according to the provisions of this Article, the provisions of the law on civil procedure pertaining to judicial measures for the preservation of evidence, unless otherwise stipulated by this Law. The procedure for the preservation of evidence shall be expeditious.

(6) Where it is subsequently found that the proposal for the preservation of evidence is unjustified or if the right holder does not justify such proposal, the opposite party may request:

- a) return of the seized objects;
- b) prohibition of use of the information obtained;
- c) indemnification.

(7) The court shall ensure the protection of confidential information pertaining to the parties in the proceedings for the preservation of evidence under the provisions of this Article, and take care that the court proceedings are not abused solely for the purpose of obtaining confidential information on the opposite party.

Article 162  
(Obligation to Furnish Information)

(1) During the lawsuit in the matter of the infringement of a right under this Law, and on the basis of a justified claim of one of the parties, the court may order the infringer of the right to provide information on the source and distribution channels of the goods or services infringing the right under this Law.

(2) The court may order that the information referred to in paragraph (1) of this Article be provided to the court also by the persons who, within the scope of commercial activity:

- a) possess the goods presumed to infringe the right under this Law,
- b) use the services presumed to infringe the right under this Law, or
- c) render the services presumed to infringe the right under this Law.

(3) It shall be deemed that an act is performed within the scope of commercial activity if it is performed for direct or indirect economic advantage. The notion of commercial activity does not include the acts of bona fide ultimate consumers.

(4) The court may order that the information referred to in paragraph (1) of this Article is provided to the court also by a person indicated by any person referred to in paragraph (2) of this Article as involved in manufacturing, making and distribution of goods or rendering services presumed to infringe the right under this Law.

(5) The information requested on the grounds of paragraph (1) of this Article may include:

- a) name, address or the name and registered office of the manufacturer, maker, distributor, supplier and other former possessors of goods or service providers, as well as the intended wholesalers and retailers;
- b) information on the quantities of manufactured, made, delivered, received or ordered goods or services, as well as on the prices obtained for the goods and services concerned.

Article 163  
(Presentation of Evidence)

(1) Where the court decides to admit the proposed evidence held by the opposite party, such party shall surrender such evidence at the request of the court.

(2) Paragraph (1) of this Article pertains also to banking, financial and business documents controlled by the opposite party if the infringement was committed on a commercial scale.

(3) The respective provisions of the law regulating civil procedure shall be applied in the procedure for the presentation of evidence, unless otherwise stipulated by this Law.

(4) Following the presentation of evidence, the court shall ensure, according to paragraph (1) of this Article, the protection of confidential information pertaining to the

parties, and take care that judicial proceedings are not abused solely with the intention to obtain confidential information on the opposite party.

## **CHAPTER III MEASURES FOR SECURING THE PROTECTION OF RIGHTS**

### **Section A. Deposit and Register of Works**

#### Article 164 (Deposit of Copyright Works)

(1) In order to preserve evidence or for other reasons, a right holder under this Law may deposit originals or copies of his works or subject matters of related rights at the Institute for Intellectual Property of Bosnia and Herzegovina. The deposit of a work shall be entered in the records of works kept by the Institute for Intellectual Property of Bosnia and Herzegovina.

(2) Until proven otherwise, it shall be deemed that the rights in the works and subject matters of related rights entered into the records of works referred to in paragraph (1) of this Article exist and belong to the person indicated therein as the holder thereof.

(3) The records of works are public and unified for the whole territory of Bosnia and Herzegovina.

(4) If there is doubt as to whether it is a work or a subject matter of related right that is suitable for entering into the records of works, the opinion on it shall be given by the Institute for Intellectual Property of Bosnia and Herzegovina.

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

(6) More detailed regulations concerning the manner and the form of depositing works and entering thereof in the records of works shall be enacted by the Institute for Intellectual Property of Bosnia and Herzegovina.

#### Article 165 (Symbols of Retained Exclusive Rights)

(1) The holder of exclusive rights under this Law may place on the original of his work or a copy thereof the symbol © in front of his name or company's name, and the year of publication.

(2) The holder of exclusive rights in phonograms under this Law may place on the original or copies of his published phonogram, or on their containers, the symbol (P) in front of his name or company's name, and the year of first publication.

(3) Until proven otherwise, it shall be deemed that the exclusive rights in the works or phonograms bearing such symbols exist and belong to the person indicated together with such symbol.

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

## **Section B. Customs Measures**

### Article 166 (Request of a Right holder)

(1) The holder of exclusive rights under this Law, who reasonably suspects that importation or export of the goods manufactured in contravention of the provisions of this Law shall take place, may file a request with the relevant customs authorities for the protection of his rights by means of customs measures of temporary impounding the goods.

(2) The request for protection of rights under paragraph (1) of this Article must contain in particular:

- a) details of the applicant and the holder of the exclusive right under this Law if they are not the same person;
- b) detailed description of goods, enabling the customs outposts to identify them;
- c) proof that the applicant or a person authorized by him is the holder of the exclusive right under this Law in connection with such goods;
- d) proof that the exclusive right is likely to have been infringed;
- e) other details held by the applicant, relevant for deciding on the request, such as details on the location of the goods and the destination thereof, the expected date of arrival or dispatch of the consignment, means of transportation, details of the importer, exporter or recipient, and the like;
- f) time period within which the customs outposts shall act on such request, and which may not be longer than two years from the date of its filing.

(3) The customs authorities may, before issuing the decision granting the request referred to in paragraph (1) of this Article, request the right holder to deposit security for the costs of storage and transportation of the goods, as well as for the compensation of damage which may be incurred by the customs authorities in connection with the goods.

(4) If the customs authorities grant the request referred to in paragraph (1) of this Article, it shall inform all customs units and the right holder about it.

### Article 167 (Procedure Following the Temporary Impounding of Goods)

(1) If in the course of customs procedure a customs outpost finds the goods matching the description of the goods indicated in the decision of the customs authorities, it shall temporarily impound such goods. The decision on temporary impounding of the goods shall be delivered to its importer. It shall be specified in the decision on impounding the goods that the owner of the goods, or a person entitled to

dispose with the goods may declare, within ten working days from the date of temporary impounding, whether the goods are counterfeit or whether another infringement of right under this Law is involved.

(2) If the customs outpost retaining the goods in temporary custody does not receive a written declaration of the owner or a person entitled to dispose with the goods within the time period mentioned in paragraph (1) of this Article, the customs outpost may seize and destroy the goods at the request and expense of the right holder.

(3) Where the owner of the goods or a person entitled to dispose with the goods submits the declaration, within the time period mentioned in paragraph (1) of this Article, that the goods are not counterfeit or that no other infringement of right under this Law is involved, the right holder may, within ten working days from receipt of the notification of such declaration, bring an action for the infringement of rights. Where particular circumstances of the case justify it, customs authorities may allow, at the request of the right holder, additional time limit for bringing an action, which may not be longer than ten working days.

(4) During temporary custody of the goods, the right holder or a person entitled by him may carry out the inspection and control of the goods and accompanying documents to the extent necessary for establishing his claims and obtaining judicial protection of his rights, ensuring the protection of confidential information. The importer is also entitled to carry out the inspection and control of the goods.

(5) Where the right holder fails to bring an action in accordance with paragraph (3) of this Article, the temporarily impounded goods shall be released into circulation.

(6) Where the right holder institutes judicial proceedings pursuant to the provisions of paragraph (3) of this Article, the customs outpost shall order seizure of goods until court's final decision.

#### Article 168 (Ex-Officio Procedure)

(1) If a customs outpost reasonably suspects, in the course of customs procedure in connection with the importation or export of the goods, that the rights under this Law are infringed by certain goods, it shall temporarily impound such goods, and inform customs authorities about it.

(2) Customs authorities shall inform the right holder in writing about the impounding of the goods, the suspicion that his rights are infringed, and the possibility of filing a request under Article 166 of this Law within five working days from the date of impounding.

(3) If the right holder files a request in accordance with paragraph (2) of this Article, the goods shall be impounded until the decision of customs authorities. If customs authorities grant the request referred to in Article 166 of this Law, the goods shall be temporarily impounded for another ten working days. The right holder must carry out the actions specified in paragraph (4) of Article 167 of this Law within such time.

(4) The provisions of Articles 167 and 168 of this Law shall not apply to the importation or export of small quantities of the goods intended for private and non-commercial use, which are brought into or taken out of the country as part of traveler's personal luggage or are sent in small consignments.

Article 169  
(Application of Other Customs Regulations)

(1) Other valid customs regulations shall apply *mutatis mutandis* to the customs procedure in connection with the goods infringing the rights under this Law.

(2) The regulations governing the implementation of customs measures under this Section of the Law shall be enacted by the Council of Ministers of Bosnia and Herzegovina, upon the motion of the Indirect Taxation Authority of Bosnia and Herzegovina.

(3) The customs procedure in connection with the goods infringing the rights under this Law shall be expeditious.

**PART SEVEN – PENAL PROVISIONS**

Article 170  
(Misdemeanor)

(1) A legal entity shall be fined for misdemeanor in the amount ranging from KM 1.000 to KM 200.000, and an entrepreneur shall be fined in the amount ranging from KM 1.000 to KM 20.000, if it or he:

- a) without the transfer of the respective economic right of the author, where such transfer is necessary according to the provisions of this Law, reproduces, distributes, rents, publicly performs, publicly transmits, publicly presents, publicly communicates by means of a phonogram or a videogram, broadcasts, rebroadcasts, secondarily uses, emits, makes available to the public, transforms, audio-visually adapts, or otherwise exploits a work or a copy thereof (Articles 21 to 33 and Article 110 of this Law);
- b) possesses a copy of a computer program for commercial purposes and thereat knows or should know that such copy infringes copyright (item b) of Article 107 of this Law);
- c) without the transfer of the respective exclusive right, when such transfer is required under the provisions of this Law, reproduces, fixes, publicly transmits or broadcasts a live performance, or reproduces, makes available to the public, distributes or rents a phonogram or a videogram with a fixed performance, or otherwise exploits the performance (Article 119 of this Law);
- d) without transfer of the respective exclusive right, when such transfer is required under the provisions of this Law, reproduces, distributes, rents, makes available to the public, or otherwise exploits a phonogram or a videogram (Articles 127 and 132 of this Law);
- e) without transfer of the respective exclusive right, when such transfer is required under the provisions of this Law, rebroadcasts, fixes,

- reproduces, distributes, makes available to the public or otherwise uses a broadcast or the fixation thereof (Article 136 of this Law);
- f) without transfer of the respective exclusive right, when such transfer is required under the provisions of this Law, reproduces, distributes, rents, makes available to the public or otherwise uses a database or a copy thereof (Article 143 of this Law);
  - g) removes or alters any electronic copyright or related rights management information (item a) of paragraph (1) of Article 153 of this Law);
  - h) reproduces, distributes, imports for further distribution, rents or communicates to the public a copyright work or a subject matter of related rights, or the copies thereof, from which an electronic right management information was unlawfully removed or altered (item b) of paragraph (1) of Article 153 of this Law);
  - i) circumvents effective technological measures or manufactures, imports, distributes, sells, rents, advertises for sale or rental, or possesses for commercial purposes a technology, device, product, a component or a computer program, or renders a service with the intention of unlawful circumvention of the effective technological measures under paragraph (2) of Article 152 of this Law (paragraphs (1) and (2) of Article 152 of this Law);
  - j) manufactures, imports, distributes, sells, rents, advertises for sale or rental or possesses for commercial purposes a technology, device, product, a component or a computer program for the removal or alteration of electronic rights management information (paragraph (4) of Article 152 of this Law).

(2) The responsible person of a legal entity or of an entrepreneur shall be fined for misdemeanor referred to in paragraph (1) of this Article in the amount ranging from KM 3.000 to KM 20.000.

(3) A natural person shall be fined in the amount ranging from KM 3.000 to KM 10.000 for the misdemeanor referred to in paragraph (1) of this Article.

(4) Material objects created in perpetration of misdemeanors referred to in paragraph (1) of this Article shall be confiscated and destroyed, whereas material objects or devices intended or used for perpetrating such misdemeanors shall be confiscated.

(5) The misdemeanor procedure on the grounds of the provisions of this Article shall be expeditious.

#### Article 171 (Protective Measure)

(1) A legal entity or an entrepreneur who perpetrate a misdemeanors referred to in paragraph (1) of Article 170 of this Law in the course of carrying out their business activities, may be subject to the protective measure involving the prohibition of business activities or the parts thereof which infringe copyright or related rights, for a maximum duration of one year, if the misdemeanor perpetrated is exceptionally serious regarding the manner in which it was perpetrated, consequences of the act or other circumstances of the misdemeanor perpetrated.

(2) A legal entity or an entrepreneur who repeatedly perpetrate the misdemeanor referred to in paragraph (1) of Article 170 of this Law shall be subject to the protective measure involving the prohibition of business activities or the parts thereof which infringe copyright or related rights, for a minimum duration of one year.

#### Article 172

##### (Fines for Obstructing the Exercise of Substantial Limitation to Rights)

(1) A legal entity or an entrepreneur shall be punished for misdemeanor by fine amounting from KM 3.000 to KM 20.000 if it/he fails to provide to the person having lawful access to a copy of the work or subject matter of related rights the means which enable the exercise of substantive limitations to the rights under Article 155 of this Law.

(2) The responsible person of a legal entity or of an entrepreneur shall be punished for the misdemeanor referred to in paragraph (1) of this Article by fine amounting from KM 1.500 to KM 20.000.

(3) A natural person shall be punished by fine amounting from KM 1.500 to KM 10.000 for the misdemeanor referred to in paragraph (1) of this Article.

#### Article 173

##### (Inspectional Control)

(1) Inspectional control over the compliance with the provisions of this Law in the segment of trafficking in goods and services shall be conducted in the first instance by the respective inspections in the Federation of Bosnia and Herzegovina, the Republika Srpska and the Brčko District of Bosnia and Herzegovina in charge of control over the regulations in the field of trafficking in goods and services (market), and in the second instance by the respective ministries in the Federation of Bosnia and Herzegovina, the Republika Srpska and the Brčko District of Bosnia and Herzegovina in charge of the field of trafficking in goods and services (market).

(2) The inspections referred to in paragraph (1) of this Article shall conduct inspectional control through competent market inspectorates.

#### Article 174

##### (Competencies of the Competent Market Inspector)

(1) In the conduct of inspectional control referred to in Article 173 of this Law, a competent market inspector, besides general competencies prescribed by law and other regulations governing the procedure of inspectional control, shall also be authorized to:

(a) permanently seize the goods intended for trafficking in which infringe one of economic rights under this Law and order its destruction in the case when the owner of the goods or another person authorized to dispose with the goods states himself that such goods infringe someone's exclusive economic right under this Law;

(b) temporarily seize the goods intended for trafficking in which is reasonably suspected to infringe one of the economic rights under this Law, and



- inform the right holder or his representative that he may propose permanent seizure of the goods within five days;
- (c) permanently seize the goods intended for trafficking in and order the destruction thereof at the expense of the right holder if the right holder or his representative, in the case referred to in item b) of this paragraph, declares and proves that such goods infringe one of his exclusive economic rights under this Law;
  - (d) temporarily prohibit manufacturing of or trafficking in the goods or services which are reasonably suspected to infringe one of the economic rights under this Law and inform the right holder or his representative that he may propose ordering of the measure prohibiting manufacturing and trafficking in the goods and services within five days;
  - (e) permanently prohibit from manufacturing and trafficking in the goods or services a person who manufactured or put into circulation the goods or service if the right holder or his representative, in the case referred to in item d) of this paragraph, declares or proves that such goods or service infringe one of his exclusive economic rights under this Law.

(2) In addition to the measures referred to in items c) and e) of paragraph (1) of this Article, the inspector may also order a measure of prohibiting the work and business activities for the duration of 30 to 90 days to a person who manufactured or put into circulation the goods or service which infringe one of the economic rights under this Law.

(3) A right holder or his representative may, in the cases when temporary measures referred to in paragraph (1) of this Article are ordered, carry out the inspection of the goods and accompanying documents to the extent necessary to establish the facts relevant for filing a motion for further measures of inspectional control referred to in paragraph (1) of this Article, which are of permanent character, to be taken.

(4) The notification referred to in paragraph (1) of this Article shall contain the instruction on the options and terms of filing a motion for further measures of inspectional control of permanent character to be taken, the statement of reasons for suspicion that the goods or service infringe one of the economic rights under this Law, detailed information on the goods or service, owner of the goods or service provider, current location of the goods or place where the service is provided, and the information relevant for the contact between the right holder and the inspection authorities.

(5) The notification referred to in paragraph (1) of this Article shall be delivered to the right holder or his representative in writing, by electronic mail, fax or in another suitable way ensuring expediency of procedure, and in justified cases, it can also be relayed verbally.

(6) The declaration of the right holder or his representative referred to in paragraph (1) of this Article, given during the course of the procedure of inspectional control, that the goods or service concerned infringes one of his exclusive economic rights under this Law must be in written form and certified by competent authority, and it must also contain a declaration to the effect that he accepts full liability for the compensation of damages in case that the goods or service concerned prove not to infringe one of his exclusive economic rights under this Law, and in addition to that, in case of a motion for the measures referred to in item c) of paragraph (1) of this Article to be taken, a

declaration to the effect that he shall bear the costs of the destruction of goods when it is permanently seized and identified for destruction.

(7) The temporary measures referred to paragraph (1) of this Article shall cease, and temporarily seized goods shall be returned, in the case when:

- (a) the right holder or his representative is unknown or unreachable;
- (b) the right holder or his representative does not request or has not requested within the specified time limit further measures of inspectional control to be taken;
- (c) the right holder or his representative fails to make written and certified declaration that the goods or service concerned infringes one of his exclusive economic rights under this Law or fails to make the declaration which contains all the necessary elements prescribed by paragraph 6 of this Article;
- (d) the right holder or his representative fails to prove that the goods or service in concerned infringes one of his exclusive economic rights under this Law;
- (e) in other cases stipulated by this Law.

## **PART EIGHT - AREA OF APPLICATION OF THE LAW**

### Article 175 (General Provisions)

(1) The authors, as well as other copyright or related right holders who are nationals of Bosnia and Herzegovina or who have domicile or principal place of business in Bosnia and Herzegovina shall enjoy the protection under the provisions of this Law.

(2) Other foreign natural persons or legal entities (aliens) shall enjoy equal protection as persons referred to in paragraph (1) of this Article if it is stipulated by an international treaty or this Law, or on the grounds of material reciprocity. Until proven otherwise, it shall be presumed that material reciprocity exists.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, the aliens shall enjoy the protection under the provisions of this Law:

- a) with respect to moral rights in any case;
- b) with respect to resale right and right to remuneration for private and other internal reproduction, provided that material reciprocity exists.

### Article 176 (Authors)

(1) In addition to the authors referred to in Article 175 of this Law, the protection under the provisions of this Law shall also be granted to:

- a) the authors whose works were first published in Bosnia and Herzegovina or within 30 days from the date of their publication in another state,
- b) the authors of audiovisual works whose producer has principal place of business or domicile in Bosnia and Herzegovina,

- c) authors of works of architecture, constructed within the territory of Bosnia and Herzegovina, and of works of visual art located within the territory of Bosnia and Herzegovina as immovable property or a firm integral part thereof.

(2) Where a work is created by coauthors, all of them shall enjoy protection under the provisions of this Law if at least one of them fulfils any of the conditions referred to in paragraph (1) of this Article.

Article 177  
(Performers)

(1) In addition to the performers referred to in Article 175 of this Law, the protection under this Law shall also be granted to the performers:

- a) whose performances take place within the territory of Bosnia and Herzegovina,
- b) whose performances are fixed in phonograms which are protected under this Law;
- c) whose performances are, without fixation on phonograms, included in the broadcasts of broadcasting organizations which are protected under this Law.

(2) Where there are several performers taking part in a performance, all of them shall enjoy protection under the provisions of this Law, provided that at least one of them is a national of Bosnia and Herzegovina or has domicile in Bosnia and Herzegovina.

Article 178  
(Phonogram Producers, Film Producers and Publishers)

(1) In addition to the phonogram producers and film producers referred to in Article 175 of this Law, phonogram producers and film producers whose phonograms or videograms were first fixed in Bosnia and Herzegovina shall also enjoy protection under the provisions of this Law.

(2) In addition to the publishers referred to in Article 175 of this Law, the publishers whose editions were first published in Bosnia and Herzegovina or within 30 days from the publication thereof in another state, shall also enjoy protection under the provisions of this Law.

Article 179  
(Broadcasting Organizations)

In addition to the broadcasting organizations referred to in Article 175 of this Law, broadcasting organizations which transmit their broadcasts through the transmitters located within the territory of Bosnia and Herzegovina shall also enjoy protection under the provisions of this Law.

Article 180  
(Comparison of the Terms of Protection)

(1) The terms of protection under this Law shall apply to foreign authors enjoying the protection under this Law, but they expire no later than the date of expiry of protection in the state whose nationals they are, and they may not be longer than the terms under this Law.

(2) The terms of protection under this Law shall apply to foreign holders of related rights who enjoy protection under this Law, but they expire no later than the date of expiry of protection in the state whose nationals they are or in which they have principal place of business, and they may not be longer than the terms under this Law.

Article 181  
(Communication to the Public by Satellite)

(1) The authors and holders of related rights whose works or subject matters of related rights are communicated to the public by satellite shall enjoy protection under this Law, provided that the respective program-carrying signals, under control and responsibility of a broadcasting organization in Bosnia and Herzegovina, are sent into an uninterrupted chain of communication to a satellite and back to Earth.

(2) The protection under the provisions of this Law shall also exist in the case where the condition referred to in paragraph (1) of this Article is not met if:

- a) the uplink station from which program-carrying signals are transmitted is located in Bosnia and Herzegovina or
- b) the broadcasting organization which commissioned the communication to the public by a satellite has its principal place of business in Bosnia and Herzegovina.

Article 182  
(Stateless Persons and Refugees)

(1) The authors and holders of related rights with no citizenship or whose citizenship cannot be determined shall enjoy equal protection under this Law as the citizens of Bosnia and Herzegovina, provided that they are domiciled in it.

(2) If the authors and related right holders are not domiciled in Bosnia and Herzegovina or it cannot be determined, they shall enjoy equal protection as the citizens of Bosnia and Herzegovina if they have residence in it.

(3) If authors and related right holders have no residence in Bosnia and Herzegovina either, they shall enjoy equal protection as the citizens of the state in which they do have domicile or residence.

(4) The provisions of this Article shall also apply to the authors and related right holders enjoying refugee status under international treaties or the laws of Bosnia and Herzegovina.

**PART NINE - TRANSITIONAL AND FINAL PROVISIONS**

Article 183  
(Application of the Law)

(1) This Law shall apply to the works and subject matters of related rights that come into existence after the entry into force of this Law.

(2) This Law shall also apply to the works, performances, phonograms and broadcasts that came into existence before the entry into force of this Law, and in respect of which the rights recognized by prior law or the law of the country of their origin did not cease before the day of the entry into force of this Law.

(3) This Law shall apply to databases as subject matters of related rights, created after January 1, 1983.

Article 184  
(Prohibition of Retroactive Application)

This Law shall not apply to contracts or acts of using, entered into or performed in accordance with valid regulations before its entry into force.

Article 185  
(Application of the Law on Computer Programs and Databases)

The provisions of this Law pertaining to computer programs and databases shall also apply to computer programs and databases created or made before the date of its entry into force, provided that it is without prejudice to the contracts concluded and rights acquired before that date.

Article 186  
(Payment of Remuneration for Private or Other Internal Use)

(1) The provisions of this Law pertaining to the obligation of payment of remuneration for private or other internal use (articles 36 and 37 of this Law) shall start to apply following the expiry of one year from its entry into force.

(2) The implementing regulations on the remuneration amounts for the reproduction for private or other internal use referred to in paragraph (1) of Article 38 of this Law shall be enacted by the Council of Ministers of Bosnia and Herzegovina within six months from the date of entry into force of this Law, at the latest.

Article 187  
(Implementing Regulations on the Deposit of Works)

The implementing regulations governing deposit and maintenance of records of copyright works and subject matters of related rights referred to in Article 164 of this Law shall be enacted by the Institute for Intellectual Property of Bosnia and Herzegovina within one year from the date of entry into force of this Law at the latest.

Article 188  
(Remuneration for the Communication of Phonograms to the Public)

The application of the provisions of this Law pertaining to remuneration for the communication of phonograms to the public (Articles 121 and 128 of this Law) shall commence after the end of the year 2013.

Article 189  
(Legislation on the Inspectional Control of the Market)

The Federation of Bosnia and Herzegovina, the Republika Srpska and the Brčko District of Bosnia and Herzegovina shall amend, within one year from the entry of this Law into force, their respective laws governing the inspectional control of the market in order to ensure effective protection of copyright and related rights against violation.

Article 190  
(Application of International Treaties)

The provisions of international treaties pertaining to copyright and related rights, to which Bosnia and Herzegovina acceded, shall apply to subject-matters dealt with by this Law, and in the case of conflict with the provisions of this Law, the provisions of international treaties shall apply.

Article 191  
(Cessation of Application of Prior Law and Exceptions)

(1) By entry into force of this Law, the Law on Copyright and Related Rights in Bosnia and Herzegovina (Official Journal of Bosnia and Herzegovina, volumes 7/02 and 76/06) shall cease to be in force, with the exception of the provisions of:

(a) CHAPTER VIII – MANAGEMENT OF COPYRIGHT, pertaining to the collective management of copyright (articles 86, 87, 88, 89, 90 and 91);

(b) CHAPTER XIII – MANAGEMENT OF THE RIGHTS OF PERFORMING ARTISTS, pertaining to the collective management of related rights (articles 105, 106, 107 and 108);

(c) CHAPTER XVI – PENAL PROVISIONS, pertaining to criminal offences (articles 120,121,122, 123 and 124), and

(d) CHAPTER XVII – MISDEMEANORS, pertaining to the collective management of rights (articles 130,131 and 132), court jurisdiction (Article 134) and budgetary issues (Article 135).

(2) The provisions of paragraph (1) of this Article under a), b), c) and d) shall apply until the entry into force of the Law on the Collective Management of Copyright and Related Rights.

Article 192  
(Entering of This Law into Force)

This Law shall enter into force on the eighth day following its publication in the Official Journal of Bosnia and Herzegovina.

Speaker  
House of Representatives  
Parliamentary Assembly BiH  
**Niko Lozančić**

Speaker  
House of Peoples  
Parliamentary Assembly BiH  
**Sulejman Tihić**