

LAW ON COPYRIGHT AND NEIGHBOURING RIGHTS

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TITLE ONE

COPYRIGHT

Chapter One

GENERAL PROVISIONS

Subject Matter of the Law

Art. 1. This Law shall govern the relations, related to the creation and distribution of works of literature, art and science.

Arising of Copyright

Art. 2. Copyright on works of literature, art and science shall arise for the author upon creation of the work.

Chapter Two

SUBJECT MATTER OF COPYRIGHT

Protected Subjects

Art. 3. (1) Subject matter of copyright shall be any work of literature, art and science, which is a result of creative activities and is expressed in whatever manner and in whatever form, such as:

1. literary works, including works of scientific and technical literature, editorials, columnist works, political essays and the like, and computer programs;
 2. musical works;
 3. performing art works, such as dramatic works, dramatico-musical works, pantomimes, choreographic works, etc.;
 4. films and other audiovisual works;
 5. works of fine art, including works of applied art, design and folklore artistic crafts;
 6. works of architecture;
 7. photographic works and works created by a process analogous to photography;
 8. blueprints, maps, sketches, plans and others, relating to architecture, urban planning, geography, topography, museum activities and to any sphere of science and techniques;
 9. graphic design of publications;
- (2) Subject of copyright shall also be the following:
1. translations and adaptations of pre-existing works and folklore;
 2. arrangements of musical works and folklore;

3. periodicals, encyclopedias, collections, anthologies, bibliographic works, databases and others, which include two or more works or products.

(3) Subject of copyright may also be any part of a work under paragraphs (1) and (2), as well as preliminary drawings, diagrams, and the like.

Exceptions

Art. 4. The following shall not be subject of copyright:

1. legislative and individual enactments of government bodies and official translations thereof;
2. ideas and concepts;
3. works of folklore;
4. current news, facts, information and data;

Chapter Three COPYRIGHT OWNERS

Authors and Other Copyright Owners

Art. 5. The author shall be the natural person whose creative endeavours have resulted in the creation of a literary, artistic or scientific work. Other natural or legal persons may be owners of copyright only where this Law so provides.

Presumption of Authorship

Art. 6. Until otherwise is proved, the author of a work shall be deemed to be the person whose name or other identifying mark is shown in the customary manner on the literary, artistic or scientific work.

Authorship of Works Disclosed under a Pseudonym or Anonymously

Aft. 7. (1) A work may be made available to the public under a pseudonym or anonymously.

(2) Until the identity of the author is disclosed, his copyright shall be exercised by the natural or legal person, who first has made the work available to the public with the author's consent.

(3) The provision of paragraph (2) shall not apply if the pseudonym leaves no doubt as to the identity of the author.

Joint authorship

Art. 8. (1) The copyright in a work created by two or more persons shall belong jointly to them irrespectively whether the work is indivisible or consists of parts of autonomous significance.

(2) The consent of all authors shall be required for every instance of use or revision of the work. In the event of the authors failing to reach agreement among them, the court shall decide the issue.

(3) If authorization has been granted to use a literary, artistic or scientific work in a given manner, or a court ruling has been rendered to that effect, no one of the co-authors shall be entitled without reasonable grounds to object to that work's use in such manner.

(4) The compensation payable to the authors for the use of their work shall be distributed among them in shares by mutual agreement. If no agreement thereon is reached, it shall be deemed that all co-authors are entitled to equal shares. In the event of dispute, individual shares shall be fixed by court pursuant to each author's contribution.

(5) Whenever a work created by co-authors consists of parts of autonomous significance, each co-author may permit the individual use of his own component unless all the authors have agreed otherwise and unless the individual use does not prejudice the use of the joint work.

Copyright in Translations and Adaptations

Art. 9. The copyright on translation or adaptation shall belong to the person, who has made the translation or adaptation without prejudice to the rights of the author of the original work. This shall not deprive other persons of the right to make independently their own translation or adaptation of the same work.

Copyright in Periodicals and Encyclopaedias

Aft. 10. The copyright in periodicals and encyclopaedias shall belong to the physical person or the legal entity responsible for the creation and publication of the work. The copyright in individual components included in such publications, having the nature of literary, artistic or scientific works shall belong to the individual authors thereof.

Copyright in Collections, Anthologies, Bibliographic Works and Databases

Art. 11. (1) The copyright in collections, anthologies, bibliographic works, databases and other similar material shall belong to the person who has collected or arranged the works and/or material contained therein unless otherwise agreed in a contract. The copyright in the individual parts of which such a work may consist and which themselves constitute works of literature, art and science shall belong to the individual authors thereof.

(2) Unless provided otherwise by law, works and parts of works thereof may not be included in collections without the consent of their authors.

Copyright in Works of Fine Art and Architecture

Art. 12. The copyright in works of fine art and architecture shall belong to the person who has created the work, including where the works are the property of another person.

Copyright in Portraits

Art. 13. The copyright in a work of fine art or photography, constituting the portrait of a person other than the author, shall belong to the author of the work. The author may negotiate terms for the use of such works with the person who appears in the portrait.

Copyright in Computer Programs and Databases Developed under an Employment Contract

Art. 14. Unless otherwise agreed, the copyright in computer programs and databases developed under an employment contract shall belong to the employer.

Chapter Four CONTENTS OF COPYRIGHT

Section I Moral Rights

Types of Moral Copyright

Aft. 15. (1) The author shall be entitled to:

1. decide whether his work may be made available to the public and to determine when, where and how that may be done except for the subject matter of copyright under Art. 3 (1), items 4, 6 and 8, for which such rights shall be arranged by contract;
2. claim the copyright in such work;
3. decide whether such works shall be made available to the public under a pseudonym or anonymously;
4. require that his name, his pseudonym or other identifying mark be mentioned in a suitable manner whenever his work is used;
5. require that the integrity of his work be preserved and object to any changes therein, as well as to any other action which might violate his legitimate interests or personal reputation;
6. make alterations in the work in so far as the acquired rights of other persons are not thereby prejudiced;
7. have access to the original of the work when it is in the possession of another person and whenever such access is necessary for the exercise of any moral or economic right provided by this Law;
8. stop the use of the work owing to changes in his beliefs, with the exception of already completed works of architecture, subject to compensation for the damages incurred by persons who have lawfully obtained the right to use the work.

(2) The author of an architectural design shall not be entitled to object to the wish of the owner of the completed structure to destroy it, to reconstruct it, to add a superstructure or annex to it as long as such actions are undertaken in compliance with the relevant laws in effect.

Non- Transferability of Moral Rights

Art. 16. Moral rights under items 2 and 4 of paragraph (1) of the preceding Article shall be non-transferable. Transfer of other moral rights may only be explicit and in writing.

Exercise of Moral Rights

After the Death of the Author

Art. 17. After the author's death and until the expiration of the term of copyright protection, the moral rights, except for the rights under Art. 15 (1), items 6 and 8, shall be exercised by the author's successors.

Section II

Economic Rights

Types of Economic Copyright

Art. 18. (1) The author shall have the exclusive right to use the work created by him and to permit its use by other persons unless this Law provides otherwise.

(2) Acts such as those listed below shall be considered use within the meaning of paragraph (1):

1. reproduction of the work;
 2. distribution of the original of the work or copies thereof among an unlimited number of persons;
 3. public presentation or performance of the work;
 4. broadcasting of the work by wireless means;
 5. transmission of the work by cable or other technical means;
 6. public display of a work of fine art or a work created by photographic or similar means;
 7. translation of the work into another language;
 8. modification of the work. Modification means the adaptation of the work and the making of any alterations to it, as well as the use of the work for the purpose of creating a new derivative work.
 9. implementation of an architectural design by constructing or manufacture of the object to which it relates.
 10. transmission by wireless, cable or other technical means of access to the work, or part thereof, for the benefit of an unlimited number of persons in a manner that permits such access to occur in a place and at a time individually chosen by each one of them.
 11. importation and exportation of copies of the work in commercial quantities, irrespective of whether they have been manufactured legally or in violation of the right under item 1.
- (3) There shall be use under paragraph (2) items 3 to 8 inclusive, whenever the acts described above have been performed in such a manner as to enable an unlimited number of people to perceive the work.

Termination of the Distribution Right

Art.18a (1) The first sale or other transfer of ownership in the original of the work or a copy thereof by the right owner or with his consent on the territory of Bulgaria shall terminate the distribution right regarding the work or copies thereof with the exception of the right to authorize further rental.

(2) The provision under paragraph 1 shall not prejudice the right provided for by Art. 20.

(3) The provision of paragraph 1 shall not refer to transmission of originals of the work or copies thereof in a digital form with regard to material copies of the work made by the user with the consent of the right owner.

Right to Compensation For All Types of Use

Art. 19. The author shall be entitled to compensation for all types of use of his work and for each subsequent use of the same type.

Resale Right

Art. 20. (1) In case of second and subsequent sales of the original of a work of fine art, sculpture or engraving through a dealer or by public auction, the author shall be entitled to compensation in the amount of five per cent of the selling price, unless a higher percentage has been agreed upon.

(2) The dealer or auctioneer shall inform the author two months prior to the sale of his work, and shall pay him the compensation due, either directly or through a collective management society of authors' rights, providing him with information about the price at which the work has been sold. The author and the collective management society of authors' rights shall not disclose this information if that is the wish of the new owner.

Permitted Cable Transmissions

Art. 21. (1) The authorization for broadcasting of the work by wireless means shall also include authorization for transmission of the work by cable or other technical means by the same organization without payment of separate compensation, provided the transmission takes place simultaneously with the broadcasting in an unabridged and unaltered form, and does not exceed the boundaries of the area that the broadcasting right has been granted for.

(2) Besides the cases referred to in (1), permission for retransmission of the work by cable or other technical means, simultaneously with its broadcasting or transmission, in an unabridged and unaltered form by another organization, shall be granted only through a collecting society.

*Permissible Transmission Via Telecommunication
Satellite*

Art. 22. (1) Permission to broadcast a work by wireless means shall also include the right of the broadcasting organization to transmit the work by a signal sent to a satellite and back to earth in a manner permitting its reception by the public, either directly and individually or through an intermediary other than the transmitting authority. This shall only be permissible where the signal is received through an intermediary, if the author has agreed to grant to the receiving organization the right to broadcast the work by wireless means, transmit it by cable or other technical means or otherwise communicate it to the public. In such instances no compensation shall be required from the organization that transmits the signal to the satellite.

(2) When the signal under (1) is encrypted, the permission shall be considered granted only if the decrypting device has been provided by the broadcasting organization or with its consent.

Chapter Five
FREE USE OF WORKS

Permissible Free Uses

Art. 23. Free use of works shall be permissible only in the cases specified in this Law, provided that it does not conflict with the normal exploitation of the work and does not prejudice the legitimate interests of the copyright holder.

Permissible Free Use without Payment of Compensation

Art. 24. The following shall be permissible without the consent of the copyright holder and without payment of compensation:

1. Temporary reproduction of works provided the act is transient and incidental, has no independent significance and is an integral and essential part of a technological process, and whose sole purpose is to enable:

- a) Transmission in a network by an intermediary, or
- b) Other lawful use of the work.

2. Use of quotations from other persons' already disclosed works when criticizing or reviewing, provided the source and the name of the author are cited unless this turns out to be impossible. The quotation should be compatible with the usual practice and its extent should not exceed the one justified by the purpose.

3. Use of parts of published works or of a limited number of works in other works to the extent justified by the purposes of analysis, comments or scientific research. Such use shall be permissible only for scientific and educational purposes, provided the source and the name of the author are cited unless this turns out to be impossible.

4. Use as current information in the press and other mass media of speeches, reports, sermons and the like and parts thereof, delivered at public meetings, as well as of pleas before the court provided the source and the name of the author are cited unless this turns out to be impossible.

5. Use by the mass media of already disclosed articles on current economic, political or religious issues in case such use has not been explicitly forbidden, provided the source and the name of the author are cited unless this turns out to be impossible;

6. Reproduction by a photographic, cinematographic or another analogous process, as well as by way of sound or video recording, of works related to current events, for the purposes of the mass media, to a limited extent justified by the purposes of information, provided the source and the name of the author are cited unless this turns out to be impossible.

7. Use of works permanently exhibited on streets, squares and other public places, excluding mechanical contact copying, as well as their broadcasting by wireless means or transmission by cable or other technical means, if done for the purposes of information or another non-commercial purpose.

8. Public presentation and public performance of published works in schools and other educational establishments, provided that there are no pecuniary revenues and no compensation is paid to the participants in the preparation and carrying out of the public presentation or performance.

9. Reproduction in necessary quantities of already published works by public libraries, schools or other educational establishments, museums and archives with educational or conservation purposes, provided this use will not serve commercial purposes.

10. Reproduction of already disclosed works in Braille or another analogous method, if not done for gainful purposes.

11. Permitting access of natural persons to works in collections belonging to organizations referred to in item 9, provided this is done for scientific purposes and is not of commercial nature.

12. Ephemeral recording of a work by radio and television organizations to which the author has granted the right to use the work made by means of their own facilities and for their own broadcasts and within the framework of the authorization granted. Recordings that have exceptional documentary character may be preserved in official archives.

13. Use of works for the purposes of national security, in court or administrative procedures or in the parliamentary practice.

14. Use of works during religious ceremonies or during official ceremonies organized by the public authorities.

15. Use of a building, which is a work of architecture or a plan of such a building for the purposes of its reconstruction.

(2) The provisions under paragraph 1 shall not refer to computer programs. The provisions of Art. 70 and Art. 71 shall be applicable to computer programs.

Permissible Use Against Compensation

Art. 25 (1) The following shall be permissible without the consent of the copyright holder and against payment of compensation:

1. Reproduction on paper or similar medium by reprographic or another analogous process of works with the exception of sheet music, and for no commercial purposes.

2. Reproduction of works on any medium made by a natural person for his private use and for no commercial purposes.

(2) The provision under paragraph 1, item 2 shall not refer to computer programs and works of architecture. The provisions of Art. 70. and Art.71 shall be applicable to computer programs.

Binding the Free Use with Preserving Technical Means of Protection

Art. 25a. The use of works under Art. 24 (1) and Art. 25 (1) may not be carried out in a manner accompanied by removal, damage, destruction or disruption of technical means of protection without the consent of the copyright holder.

Compensation for Permissible Free Use

Art. 26. (1) The authors of works recorded on sound or video carriers, as well as the performers, whose performances are recorded and the producers of sound recordings, and the producers of the first fixation of recorded films, shall be entitled to a compensation where the recordings are re-recorded for personal use. The authors and the publishers of any printed works shall also be entitled to such compensation when these works are reproduced in a reprographic way for personal use.

(2) The compensation under paragraph (1), first sentence, shall be paid by the persons manufacturing or importing blank sound or video carriers and apparatuses meant for recording, and the compensation under paragraph 1, second sentence - by the persons manufacturing or importing apparatuses meant for reproduction in a reprographic way. The rate of the compensation is five percent of the production price of the carriers manufactured in

the country, and two percent of the production price of the apparatuses manufactured in the country, accordingly of the customs taxable price base for imported carriers and apparatuses.

(3) The compensations shall be paid to organizations established under Art. 40 by societies representing different categories of right owners under this Law. These organizations shall distribute the compensations among their member societies. Prior to the distribution twenty percent of the collected sum shall be deducted and transferred to the account of the National Culture Fund.

(4) The distribution of the collected sums among the different categories of right owners shall be done as follows:

1. of the compensations under paragraph 1, first sentence:
 - a. one third to the authors;
 - b. one third to the performers;
 - c. one third to the producers.
2. of the compensations under paragraph 1, second sentence:
 - a. fifty percent to the authors;
 - b. fifty percent to the publishers.

(5) The sums collected under paragraph 1 shall be returned by the collecting organizations within six months following the arising of the grounds for that:

1. When the levied blank sound and video carriers:
 - a. have become afterwards subject of an exportation deal without being recorded;
 - b. have been recorded afterwards in the country by a person who has legitimately acquired the right to make such recordings and has settled the issue of authors' and neighbouring rights related to the recordings;
 - c. have been purchased by licensed radio or television organizations and recorded by them, and have remained for the purposes of their own broadcasts;
 - d. have been purchased by producers of films or other audiovisual works and recorded by them, and used for their own production or advertising purposes;
 - e. have already been or will be equipped thereafter with technological means of protection.
2. When the levied apparatuses intended for recording or reproduction in a reprographic way:
 - a. have become afterwards subject of an exportation deal and in case this deal has been executed prior to their use in the country;
 - b. have been purchased by public libraries, schools or other educational establishments, museums and archives;
 - c. have been purchased by the National Assembly, the National Intelligence Service, the National Security Service, the Ministry of Defence and the courts.

(6) Apparatuses intended for recording within the meaning of this article shall be any apparatuses that are intended for recording of works on a sound or video carrier from a sound or video carrier or from a radio or television broadcast. Apparatuses designated for reproduction in a reprographic way shall be any devices designated to make copies from printed materials by means of photocopying or any other means achieving such a result.

Chapter Six DURATION OF COPYRIGHT

General Rule

Art. 27. (1) Copyright shall be protected for the lifetime of the author and for seventy years after his death.

(2) For works created by two and more authors the term specified in paragraph (1) shall start upon the death of the last surviving co-author.

Anonymous and Pseudonymous works

Art. 28. The copyright in anonymous or pseudonymous works shall be protected for 70 years after the works are first made available to the public. If the author's identity is revealed before the end of this term, or if the pseudonym leaves the author's identity in no doubt, the provisions of the preceding Article shall apply.

Computer Programs and Databases

Art. 28a. The copyright in a computer program or database under Art. 14 shall be protected for 70 years after the work is made available to the public. If the author's identity is established before the end of that term, the provisions of Art. 27 shall apply.

Films

Art. 29. (1) The copyright in a film or other audiovisual work shall be protected for 70 years after the death of the last survivor of the group comprising the director, the author of the screenplay, the director of the photography and the author of the dialogue, and also the composer if the music was specially made for the film.

Collective Works

Art. 30. (1) The copyright in encyclopaedias, periodicals and other works under Art. 3 (2), item 3, shall be protected for 70 years after their publication.

(2) In the case of works that are published in volumes, parts, issues or instalments, the term under paragraph (1) shall be calculated for each one individually.

Commencement of Terms

Art. 31. The terms under the preceding Articles of this Chapter shall start to run on January 1 of the year following the year of the author's death or, as the case may be, the year in which the work under Articles 27 to 30 inclusive was made, or made available to the public, or published.

Inheritance of Copyright

Art. 32. (1) After the author's death the copyright shall transfer to his successors by testamentary provision or by operation of the provisions of the Law on Inheritance.

(2) Copyright may be inherited until the expiration of the term of protection.

Exercise of Rights in the Absence of Successors

Art. 33. Where the author has no successors or all of them die prior to the expiration of the term of protection, copyright shall revert to the State, which shall exercise it through the Ministry of Culture until the term expires. In case the deceased author or his successor has been

a member of a collective management society of rights under this Law, that organization shall exercise such rights at its own expense until they expire.

Use of Works After the Copyright Has Expired

Art. 34. After the expiration of the term of copyright protection, the works may be used freely provided that the use does not violate the rights under Art. 15, items 4 and 5, which are of unlimited duration. The bodies under Art. 33 shall monitor the observance of these rights and may, exceptionally, permit changes to be made in such works.

Protection of Unpublished Works

Art. 34a. Any person who makes a work available to the public after the term of copyright protection has expired shall enjoy the rights under Art. 18 if the work has not been published previously. That right shall be protected for 25 years as from January 1 of the year following that in which the work is made available to the public.

Chapter Seven USE OF WORKS

Section I General Provisions

Author's Consent for the Use of His Work

Art. 35. A literary, artistic or scientific work may be used with the consent of the author unless otherwise provided by this Law.

Contracts for Use

Art. 36. (1) Under a contract for use of his work the author grants the user the exclusive or non-exclusive right to use the work created by him on specific terms and for compensation.

(2) Where an author grants a user the exclusive right to use the work, he may not use it himself in the manner, for the term or on the territory agreed upon in the contract, nor may he grant such rights to third persons.

(3) Where an author grants a user the non-exclusive right to use a work, he may continue to use it himself and also grant third parties the non-exclusive right to use it.

(4) The grant of exclusive rights under paragraph (2) shall be made expressly and in writing. Where no such provision has been made, it shall be deemed that nonexclusive rights to use the work have been granted,

(5) In case no term of duration has been specified in the contract, it shall be assumed that the right to use the work has been granted for three years, and in case of architectural designs - for five years.

(6) If the contract does not specify a territory on which a user may use the work, the country of which the user is a national, or the country of the registered office in the case of a legal person, shall be regarded as that territory.

Effect and Duration of the Contracts

Art. 37. (1) A contract under which the author grants the right to use all the works he may create for the remainder of his lifetime shall be considered null and void.

(2) The duration of the contract for use of a work shall be up to ten years. In case a longer term of duration has been stipulated in the contract, it shall remain in force for 10 years only. This limitation shall not apply to contracts for architectural designs.

Amount of Compensation

Art. 38. (1) The compensation of the author may be defined as a portion of the revenue derived from the use of his work, payable as a fixed lump sum or otherwise.

(2) In case the compensation determined as a lump sum proves to be clearly out of proportion to the revenue derived from the use of the work, the author may claim an increase in that compensation. If no agreement can be reached between the parties, the dispute shall be resolved by the court ruling *ex aequo et bono*.

Escape from a Contract Before Performance Has Commenced

Art. 39. (1) Where a contract granting exclusive rights does not specify a deadline by which the user should start to use the work, the author may escape from the contract if use of his work has not started within two years of the conclusion of the contract or of the delivery of the work, whichever date is later.

(2) Paragraph (1) shall not apply to architectural designs.

Collective Administration Societies

Aft. 40. (1) Authors may on their own initiative establish societies for collective administration of authors' rights and to entrust them with the right to conclude contracts for the use of their works in one or more ways and to collect compensations.

(2) A publisher to whom the author has granted rights, other than the right to publish the work, may entrust the management of those rights to a society as described in the preceding paragraph.

(3) Societies for collective administration of authors' rights shall be only associations of authors and other copyright owners. Such organizations shall not operate for profit, and shall distribute all resources collected from users among their members after having made the necessary deductions for their own operation. The establishment and functioning of these organizations shall take place according to the procedures established for non-profit associations.

(4) All organizations under paragraph (1) shall submit to the Ministry of Culture a copy of the court ruling by which it was incorporated, and of any subsequent changes thereto, within two months. The Ministry of Culture shall keep a register of these organizations.

(5) An organization under paragraph (1) shall not deny membership to any person who is owner of rights that the society administers.

(6) The regulations on the distribution among entitled members of the compensation collected by the society under paragraph (1) shall be proposed by an elected governing body of the society and adopted by the general meeting of its members.

(7) Societies under paragraph (1) may represent their own members, comparable foreign societies with which they have concluded mutual representation contracts, and the members thereof, before all judicial or administrative bodies whenever the rights that they administer have to be protected. For the protection of those rights, societies under paragraph

(1) may take on behalf of members any legal action, including the filing of claims under Articles 94 and 95, or may demand the imposition of safeguards under Art. 96a and measures under Articles 96b, 96c and 96d.

(8) Where this Law stipulates that the author's consent shall be granted only through a society for collective administration of rights, the society administering the rights concerned shall also act on behalf of non-member authors, and shall conduct its relations with those authors in the same manner as it does with its members.

Work Created under an Employment Contract

Art. 41. (1) Copyright in works created in an employment relationship shall belong to the author, unless otherwise provided by this Law.

(2) Unless otherwise agreed on in the employment contract, the employer shall have the exclusive right, without permission from the author and without paying compensation, except where the contract of employment provides otherwise, to use such a work for his own purposes. The employer may exercise this right in a manner and to an extent that is consistent with his customary activity.

(3) Whenever the compensation for the author for the work under paragraph (1) proves disproportionate to the revenue collected for the use of the work as provided in Art. 38 (2), the author may demand additional compensation. If no agreement can be reached between the parties, the dispute shall be resolved by the courts ruling *ex aequo et bono*.

Commissioned Work

Art. 42. (1) The copyright in a commissioned work shall belong to the author of the work unless otherwise provided in the commission contract.

(2) Unless otherwise agreed, the commissioner shall have the right to use the work without the permission of the author, for the purposes for which it has been commissioned.

Section II

Publishing Contract

Definition

Art. 43. Under a publishing contract the author grants the publisher the right to reproduce and distribute his work, and the publisher undertakes to perform these acts and to pay the compensation due to the author.

Types

Art. 44. A publishing contract may grant the right to reproduce and distribute a work that has already been written, or one that the author has undertaken to write.

Expanding the Field of Application

Art. 45. (1) Where under a publishing contract the author has granted a publisher the right to use the work for other purposes in addition to publishing, the publisher may license the use of the work for those purposes to third persons if this is explicitly agreed upon.

(2) The publisher shall be obliged to notify the author in writing about the transfer of rights under paragraph (1).

Form

Art. 46. A publishing contract shall be concluded in writing.

Special Non-Mandatory Rules

Art. 47. Unless provided otherwise in the publishing contract, it shall be assumed that:

1. the publisher has been granted the right to publish only one single edition;
2. the publisher has been granted the right to publish the work in a print-run not exceeding ten thousand copies;
3. compensation amounting to fifteen percent of the retail price of each copy of the work sold shall be payable to the author;
4. the number of complimentary copies which the publisher shall submit to the author shall not be fewer than five for each print-run;
5. the publisher shall be entitled to publish the work in the language in which the work has been delivered to him;
6. the publisher may distribute the work solely on the territory of his country of nationality or the one in which the registered office is situated in the case of a legal entity.

Amendments

Art. 48. Prior to undertaking a second printing, the publisher shall enable the author to make any amendments and additions to the work that may be deemed necessary.

Return of Originals Provided for Publication

Art. 49. Unless agreed otherwise in writing, the publisher shall return the originals of works of fine art, original documents and illustrations and other originals, which have been provided to him for publication.

Perished Copies

Art. 50. If the reproduced but not yet offered for sale copies of the work perish entirely or partly through no fault of the publisher, the latter may, within a period of one year, replace the perished copies without having to pay any compensation to the author.

Termination of a Contract

Art. 51. Unless agreed otherwise, a publishing contract shall be terminated on the date of its expiration or when the print-run is sold out, or when the last print-run is sold out, if two or more print-runs have been agreed upon.

Cancellation Prior to Expiration of the Contractual Term

Art. 52. (1) Unless agreed otherwise, the author may unilaterally cancel the publishing contract, by a notice in writing, where the publishing contract has been concluded for more than one print-run and the last print-run has been sold out Without subsequent reproduction and distribution of the work having been undertaken by the publisher within one year, provided that the author requested the publisher to do so within the same period. A print-run shall be

considered sold out whenever the number of unsold copies amounts to no more than five per cent of the total circulation.

(2) In the cases under paragraph (1), the author shall not be required to refund any compensation already received.

Publication at Author's Expense

Art. 53. (1) The author may, at his own expense, place an order with a publisher for the reproduction and distribution of a given number of copies of his work.

(2) An author may agree with a publisher to reproduce and distribute copies of the work, assuming part of the expenses and participating in the distribution of the revenue.

Contracts for Reproduction and Distribution of Phonograms

Art. 54. (1) Unless otherwise provided in the contract for reproduction and distribution of the work in the form of a phonogram, and unless the author has entrusted the administration of the rights to a society for collective administration of rights, it shall be understood that:

1. the user shall make the recording within 6 months of the date of delivery of the work, in a form suitable for recording, and to proceed with the reproduction and distribution within 6 months after the recording has been made;

2. the user has been granted the right to reproduce the work in a production-run not exceeding 5,000 copies;

3. the author shall be entitled to compensation equal to the proportion of 10 per cent of the unitary wholesale price of the sound medium sold that the running time of his work bears to the total running time of the -sound medium;

4. the user shall provide the author five complimentary copies of each version of the sound medium produced.

(3) The right granted by the author for the recording, reproduction and distribution of his work in the form of phonograms shall not include the right to use the recorded work for public performance, or for broadcasting by wireless, cable or other technical means. The inclusion of these rights shall be explicitly agreed upon between the parties.

Section III

Contract for Public Presentation or Performance

Definition

Art. 55. Under a contract for public presentation the author of a work of the performing arts grants a user the right to present the work, and the user undertakes to present it and pay compensation to the author.

Non-Mandatory Rules

Art. 56. Unless otherwise provided by contract, it shall be deemed that:

1. the author may grant the right of public presentation to other users outside the city in which the user's headquarters is located;

2. the contract will remain in force for three years;

3. the user shall present the work to the public within one year of receiving it;

4. the author's compensation shall amount to 15 per cent of the gross revenue from each presentation of the work;

5. the user shall report to the author twice a year on the number of public performances and the amount of revenue earned;

6. the author may cancel the contract where the user discontinues public presentations of the work for a period exceeding one year.

Contracts for the Use by Wireless, Cable or Other Technical Means

Art. 57. The provisions of items 1, 2 and 3 of Art. 56 shall apply also to contracts for broadcasting by wireless, cable or other technical means of works of the performing arts and of musical or literary works that have not been made available to the public. Unless otherwise agreed in the contract, it shall be assumed that the author has granted the user the right to make a single broadcast of the work.

Contracts for Public Performance

Art. 58.(1) Consent to the public performance, live or recorded, and to the broadcasting by wireless, cable or other technical means of musical and literary works, which have already been made available to the public, shall be given in writing by the author or by a duly authorized organization engaged in collective administration of authors' rights, which shall negotiate, collect and pay the compensation due. When the consent is given by a society for collective administration of rights, the user shall submit to the latter a precise account of the works used and of the authors thereof.

(2) Consent under paragraph (1) for the retransmission of works by cable or other technical means shall be given only by the society for collective administration of rights.

Section IV

Contract for Publication in a Periodical

Right to Use a Commissioned Work

Art. 59. (1) The author of a commissioned work shall not be entitled, without the consent of the publisher, to offer the same work or parts thereof for publication as an independent work or for wireless broadcasting prior to its being released by the publisher.

(2) Unless otherwise agreed, the restrictions under the preceding paragraph shall not apply where fifteen days for newspapers and three months for magazines have elapsed since the manuscript was handed in without the publisher having either published or informed the author within those periods of time that he will publish, specifying the issue of the periodical in which it will be done.

Right to Repeated Use

Art. 60. Unless otherwise agreed in writing, the author shall be entitled to use his work, which has already been published in a periodical after the date of the publication.

Return of Materials Offered for Publication

Art. 61. The publishers of periodicals shall be obliged to return originals of works of fine art, original documents and illustrations, offered for publication unless otherwise agreed upon in writing.

Section V

Creation and Use of Films

And Other Audiovisual Works

Right owners

Art. 62. (1) Copyright in a film or other audiovisual work shall belong to the director, the author of the screenplay and the director of photography. The copyright in cartoons shall belong also to the artist-director.

(2) The authors of the music, the dialogue, the pre-existing literary work on which the audiovisual work was based, the costume designers, the set designers, as well as the authors of all other material, incorporated in the audiovisual work, shall enjoy the copyright in their individual works.

(3) A producer within the meaning of this Title shall be the physical person or the legal entity who organizes the production of the work and provides its financing.

Contracts for Production and Use

Art. 63. (1) The authors under Art. 62 shall conclude contracts in writing with the producer under which, unless otherwise agreed upon or provided for by this Law, shall be deemed that the producer is granted the exclusive right to make copies of the work, show it in public, broadcast it by wireless, cable or other technical means, reproduce and distribute it on video carriers and authorize its translation, dubbing and subtitling, both within the country and abroad.

(2) The producer shall pay the authors as defined in the preceding Article compensation for the rights granted. In that case the provisions of Articles 41 (2) and 42 (2) shall not apply.

(3) Where one of the authors under Art. 62 refuses to complete his contribution to the film or other audiovisual work or fails to do so through no fault of his own, he may not prevent the use of the work already completed by him for the completion of the whole project. He shall nevertheless retain the copyright in the portion of the work that he has completed with all the consequences ensuing thereof.

(4) An audiovisual work shall be considered completed when its final version has been established by agreement between the director and the producer.

(5) Any changes to the final version by way of addition, deletion or alteration of elements, may only be made with the consent of the persons under paragraph (4).

(6) In case the producer is declared bankrupt, the authors under Art. 62 shall have the right to purchase the constituent material of the work at the highest price offered if they express the wish to do so in writing within three days of the closing of tenders.

(7) In case the producer cannot complete the work or upon its completion is willing to get rid of the raw working material of the initial fixation or respectively of the raw working material containing the final version of the work, he shall be obliged to give it free of charge to the authors under Art. 62 (1).

(8) Within five years of the date on which the work has been made available to the public, the producer or the persons who have become owners of the constituent material of the final version of the work shall lodge that material with the National Film Library. This shall apply to films the producer of which is a Bulgarian physical or legal person.

Secondary Use

Art. 64. The producer may grant third parties, provided that they assume the obligations under Art. 65, the right to broadcast the work by wireless, cable or other technical means, to reproduce it on video carriers for distribution or public showing, but shall notify in writing the authors under Art. 62 (1) accordingly, within a period of one month, unless otherwise provided by this Law.

Compensation

Art. 65. (1) The director, the author of the screenplay, the director of photography and the composer, as well as the artist-director of cartoons shall be entitled to compensation other than that provided for in Art. 63 (2) for each type of use of the audiovisual work, and the other authors mentioned in Art. 62 shall be eligible for such compensation if that has been specifically agreed.

(2) The compensation for the various types of use of a work shall be paid by the respective users, and the authors, at their own discretion, may receive them through the producer or through a society for collective administration of authors' rights. In the latter case the producer shall be obliged to stipulate it in the contracts, which he concludes for the use of the work.

(3) Whenever a work already announced is shown to the public for an admission fee, the compensation shall be proportional to the revenue of the producer.

(4) Irrespective of the compensation under paragraph (3), the authors under paragraph (1) shall be entitled to a percentage of all the producer's revenue ensuing from the use of the work.

Reporting to Authors

Art. 66. At the request of the persons mentioned in Article 62, the producer shall provide them at least once a year a statement of the revenue collected for each type of use of the work.

Use of Parts of Films

Art. 67. The producer may use parts of the work or individual frames to the extent justified by the purposes of advertising the film without seeking the consent of the authors and without paying compensation to them. The producer may use such parts or frames for other purposes only with the consent of the authors under Art. 62 (1), and shall pay them compensation. Other persons may use parts or frames only with the consent of the authors under Art. 62 (1), and shall pay them compensation.

Section VI
Use of Works of Fine Art, Architecture
And Photography

Presumption of Granted Rights to Public Display

Art. 68. (1) The transfer of ownership in works of fine art and photographic works, or works expressed by a process analogous to photography shall include, unless otherwise agreed in writing, transfer of the right to display the works in public.

(2) The transfer of the right to use an architectural design shall include, unless otherwise agreed in writing, transfer of the right to display the design in public.

Subsequent Use of Architectural Designs

Art. 69. For each subsequent use of an architectural design of an already constructed building or other facility, the written consent of the author shall be required.

Section VII
Use of Computer Programs

Non-Mandatory Rules

Art. 70. Unless otherwise agreed, it shall be understood that the person who has lawfully acquired the right to use a computer program may use that program, display it on screen, operate it, transmit it, store it in the memory of his computer, translate it and make adaptations and other alterations to it, provided this is necessary for achieving the purpose for which the right to use the program has been acquired, as well as for the elimination of errors.

Mandatory Rules

Art. 71. The person who has lawfully acquired the right to use a computer program need not seek the consent of the author or pay additional compensation in order to:

1. make a back-up copy of the program provided this is necessary for the respective kind of use for which the program was acquired;
2. observe, study and test the operation of the program, in order to determine the ideas and principles which may be embodied in any of its components, as long as this is done in the process of loading, displaying, running, transmitting and storing the program in the memory of a computer, and only if that person is entitled to perform such acts under Art. 70;
3. translate the programming code from one form into another, but only if this is absolutely necessary to make an existing program compatible with other programs, and on the condition that the necessary instructions for doing so are not provided and that such acts are performed only in relation to those parts of the program that require it for compatibility to be achieved. The information so obtained shall not be used for creation and distribution of computer programs that differ only slightly from the program with translated programming code, or for any other acts liable to violate the copyright in the program.

Management and control of software assets by the bodies of the central and local state administration

Art. 71a The management and control over the use of the software assets acquired by the state bodies and their administration, as well as by the local executive bodies and their administration shall be conducted in a manner set forth by the Council of Ministers.

TITLE TWO

RIGHTS NEIGHBOURING TO COPYRIGHT AND SPECIFIC RIGHTS

Chapter Eight

GENERAL PROVISIONS

Owners and Subject Matter of Neighbouring Rights

Art. 72. The following shall have rights neighbouring to copyright in their works:

1. performing artists in their performances;
2. producers of phonograms in their recordings;
3. the producer of the initial recording of a film or other audiovisual work in the original copy, as well as in the copies produced as a result of such recording;
4. radio and television organization in their programs.

Conflict with Copyright

Art. 72a. A neighbouring right may not be exercised in a manner which might result in infringing or restricting copyright.

Exercising Neighbouring Rights through Collective Administration Societies

Art. 73. The economic rights of performing artists, producers of phonograms, film producers, and radio and television organizations may be exercised by duly empowered societies engaged in the collective administration of rights under Art. 40.

Chapter Nine

RIGHTS OF PERFORMING ARTISTS

OWNER OF THE RIGHT

Art. 74. A performing artist is a person who presents, sings, plays, dances, recites, acts, directs, conducts, comments upon, dubs into another language or otherwise performs a work, circus or variety act, a puppet show or a work of folklore.

Moral Rights

Art. 75. (1) The performing artist shall enjoy the following moral rights:

1. to demand that his name, pseudonym or stage name be indicated or otherwise communicated in the customary manner at each live performance, or on every use of a recording of that performance when it is reproduced or used in any other manner;
2. to demand the preservation of the completeness and integrity of a recorded performance in case of reproduction or use in any other manner;

(2) The right under item 1 of the preceding paragraph shall be inalienable. Waiving the requirement under item 2 may only be explicit and in writing.

Economic Rights

Art. 76. (1) A performing artist shall have the exclusive right to permit for compensation:

1. the broadcasting of a performance of his by wireless, cable or other technical means, and also the sound or video recording of the performance, the reproduction of the recordings on audio or video carriers and their distribution.

2. the public performance and the broadcasting by wireless, cable or other technical means of such recordings.

3. the offering to an unlimited number of persons, by wireless, cable or other technical means, of access to his recorded performance or part thereof in a manner permitting the access to be had from any place and at any time individually chosen by each one of those persons.

4. importation and exportation of copies of the recording containing the performance of the work in commercial quantities, irrespective of whether they have been manufactured legally or in violation of the right under item 1.

(2) Performing artists shall grant the rights under the preceding paragraph by means of a written contract. Compensation may be negotiated as a percentage of the revenue as a lump-sum payment or in another manner.

(3) Unless otherwise agreed in the contract between the performing artist and the producer of sound recordings, the former shall have the right to authorize other persons as well to record and distribute his performances. Any agreement limiting the performing artist's rights to grant such permission shall be valid for a maximum of five years.

Secondary Use

Art. 77. The amount of compensation for the performing artists and producers of sound recordings for broadcasting by wireless, cable or other technical means or for the public performance using audio or other equipment, of works that have already been made available to the public shall be determined according to Additional Provisions 5, with one half of the amount payable to the performing artists and the other half to the producers of sound recordings.

Participation in Filming

Art. 78. (1) Unless otherwise agreed in the performance contract, it shall be deemed that the performing artist who has taken part in the shooting of a *film* or other audiovisual work has thereby granted the producer of the work the right to show the recorded work in public, and also the right to broadcast it by wireless, cable or other technical means, as well as the right to reproduce and distribute it on video carriers.

(2) A role played by a performing artist in a film or another audiovisual work may carry the voice of another person only with the consent of the performing artist who has played the role.

(3) Contracts under paragraph (1) concluded with performing artists playing the leading parts shall provide for additional compensation in the form of a percentage of all gross income of the producer resulting from the use of the work. That compensation shall be paid to the artists, as agreed, either by the producer or by the users concerned. Whenever the

compensation is paid by the users, the producer shall include appropriate clauses in the contracts that he concludes for the use of the work. If no compensation has been negotiated, it shall be determined on the basis of an agreement between the association of performers on the one hand and the producers or their association on the other.

(4) The performers playing the leading parts mentioned in paragraph (3) shall be, until proof is provided to the contrary, those persons whose names appear in the titles of the film in such a manner as to convey unambiguously that they are held to be so. Whenever such information is missing, possible explicit clauses may be included in the contract between the producer and the performer, and if there are no such clauses or if the contract has not been presented, the express opinion of the author of the screenplay, submitted in writing at any time, shall be taken into account.

(5) In case the television organization is at the same time a producer of a film or audiovisual work, the persons under paragraph 3 shall be entitled to additional compensation for each use of the work by this organization whereby the rate of this compensation shall be defined according to paragraph 3, sentences first and fourth.

(6) Persons playing leading parts in an audiovisual work, produced to advertising ends shall be entitled within the period during which the work is shown, to additional compensation as a percentage of the gains of the commissioner of the commercial ensuing from the advertising activities, product or service in the country. This compensation shall be agreed upon in the contract between the producer and the commissioner of the commercial. If the producer and the commissioner of the commercial are not in a direct contractual relation, the producer shall be obliged to stipulate the payment of this compensation in the contract with the person that has commissioned the creation of the work.

Permission by Groups of Performers

Art. 79. The participants in collective performances such as choirs, orchestras, ensembles or other groups of performers, shall authorize in writing one person to grant the permissions under this Chapter for the use of their performances. Soloists and conductors and also directors of stage works shall grant permission individually.

Announcing Names for Collective Performances

Aft. 80. In case of collective performances the name of the ensemble or group as a whole shall be mentioned or announced in the customary manner; the names of the soloists, the conductor and the director of the stage performance shall be announced individually, unless otherwise agreed with these persons.

Performance Under an Employment Contract

Art. 81. The permission under Art. 76 (1) to use a performance given under an employment contract shall be granted by the employer unless otherwise agreed with the performer.

Duration

Art. 82. The rights of the performers shall remain in force for fifty years. The term shall run from the first of January of the year following the year in which the recording of the performance was published, or, and where the recording has not been published or the

performance has not been recorded - at the beginning of the year, following that in which the first performance was held.

Protection of the Names of Groups of Performers

Art.83. (1) The names of groups of performers shall be registered with the Ministry of Culture in the manner specified by the Council of Ministers. Fees for filing requests for registration, for enquiries concerning register entries and for the issue of documents containing information on register entries shall be charged at a rate laid down in a tariff adopted by the Council of Ministers.

(2) The names of groups of performers shall be registered in the Cyrillic alphabet alone. If requested by the applicant, the register entry may also give the name in another alphabet.

(3) The name registered under paragraph (1) shall not be used by other groups.

(4) If another group has used the same or a similar name prior to the registration, it may seek the annulment of the register entry.

(5) Disputes over the similarity of names, or over the first use of a name by one group or another, shall be settled by the court.

(6) The right to a name under paragraph (1) shall be protected for ten years after the end of the activity of the group of performers. The term shall run from the first of January of the year, following that in which the activity was discontinued.

Application by Analogy

Art. 84. The provisions of articles 18a, 21, 22, 23, Art. 24 (1), items 1, 6, 8, 12 and 14, Art. 25 (1), item 2, Art. 25a, 26, 32, 33, 34, 36, 37 and Art. 58 (1) shall apply respectively to the rights of performers and Art. 66 - to the rights of the persons referred to in Art. 78 (3).

Chapter Ten

RIGHTS OF PRODUCERS OF PHONOGRAMS

Right owners

Art. 85. Producer of a phonogram shall be the physical person or the legal entity that organizes the first recording and finances it.

Economic Rights

Art. 86. (1) The producer shall have the exclusive right to grant permission against compensation for:

1. the reproduction and the distribution of the phonogram;
2. the importation and the exportation of copies of the phonogram in commercial quantities, irrespective of whether they have been manufactured legally or in violation of the rights under item 1;
3. the public performance and broadcasting by wireless, cable or other technical means;

4. the offering to an unlimited number of persons, by wireless, cable or other technical means, of access to the recording or a part thereof in a manner permitting the access to be had from any place and at any time individually chosen by each one of those persons.

(2) The producer may grant by contract certain rights under paragraph (1) to third persons, including the author and performers of the works recorded.

Moral Rights

Art. 87. (1) The producer may require that his name appear in the customary manner on the sound carriers and their packaging whenever recordings made by him are reproduced and distributed.

(2) In the absence of proof to the contrary it shall be deemed that the producer of the recording is the person whose name or other identifying mark is indicated on the phonogram in the customary manner.

Secondary Use

Art. 88. The compensation to producers of phonograms already made available to the public for the broadcasting thereof by wireless, cable or other technical means, or public performance by means of sound equipment or by other means, shall be determined and paid as set forth in Art. 77.

Duration

Art. 89. The rights of the producers under this Chapter shall last for fifty years. The term shall run from the first of January of the year, following the year in which the phonogram was made. In case the phonogram has been lawfully published within this period, the term shall run from the first of January of the year, following the year of that publication. In case the phonogram has not been lawfully published but has been lawfully communicated to the public within the period, referred to in the second sentence, the term shall run from the first of January, following the year of that communication.

Application By Analogy

Art. 90. The provisions of Art. 8, Art.1 8a, 21, 22, 23, Art.24 (1) items 1, 3, 6, 8, 11, 12, 13, and 14, Art. 25 (1) item 2, Art. 25a, 26 and 36 shall apply respectively to phonogram producers.

Chapter Ten 'a'

RIGHTS OF FILM PRODUCERS

Content of the Rights

Art. 90a. (1) The producer of the initial recording of a film or other audiovisual work shall have, with respect to the original of the film and the copies thereof produced as a result of such recording, the exclusive right to grant permission against compensation for:

- 1 . their duplication;
2. their screening before the public;
3. their broadcasting by wireless means;
4. their transmission by cable or other technical means;

5. their reproduction;
 6. their distribution;
 7. their translation into another language, dubbing or subtitling;
 8. the offering of access to the film or a part thereof to an unlimited number of persons, by wireless, cable or other technical means, in a manner permitting the access to be had from any place and at any time individually chosen by each one of those persons.
 9. importation and exportation of copies of the film in commercial quantities irrespective of whether they have been manufactured legally or in violation of the right under item I or item 5.
- (2) The producer shall be entitled to require that the name or the title of the film be mentioned in the usual manner whenever the film is used.

Duration

Art. 90b. The rights of producers under this Chapter shall be protected for fifty years. That term shall commence on January 1 of the year following that in which the film was made available to the public; where the film has not been made available to the public, the term shall commence at the beginning of the year following that in which the film was made.

Application by analogy

Art. 90c. The provisions of Art. 8, 18a, 21, 22, 23, Art.24 (1) items 1, 3, 6, 8, 11, 12, 13, and 14, Art. 25 (1) item 2, Art. 25a, 26 and 36 shall apply respectively to film producers.

Chapter Eleven

RIGHTS OF RADIO AND TELEVISION ORGANIZATIONS

Content of Rights

Art. 91. (1) The radio or television organization that has made the initial broadcast or transmission of its own program shall have the exclusive right to grant permission against compensation for:

1. re-broadcasting of the program by wireless means or retransmission thereof by cable or other technical means;
2. recording of the program and reproduction and distribution of the recordings;
3. offering to an unlimited number of persons, by wireless, cable or other technical means, of access to the film or a part thereof in a manner permitting the access to be had from any place and at any time individually chosen by each one of those persons.

(2) The provisions of the preceding paragraph shall also apply where a program, sent by a radio or television organization via a signal to a communication satellite is rebroadcast, retransmitted, recorded, reproduced or distributed by other persons.

(3) Where the radio or television organization under paragraph (1) or a person duly authorized by it restricts the number of persons receiving the program by encrypting the signal that contains it, consent shall be considered given only if the decrypting device has been provided by the broadcasting organization or with its consent.

(4) At the time of each use of the program under paragraph (1), the user organization shall announce in a suitable manner the name of the organization that first broadcast or transmitted the program.

(5) Where a radio and television organization referred to in paragraph 1, authorizes retransmission of its program within the meaning of Art. 21(2) and that authorization also explicitly covers re-transmission rights in subject matter included in the program and protected by this Law, and these rights have been granted to it by their right holders, the provision of Art. 21 (2) shall not be applicable.

Duration

Art. 92. The rights of the radio and television organizations under this Chapter shall remain in force for fifty years. The term shall commence on the first of January of the year following that in which the program was first broadcast or transmitted.

Application by Analogy

Art. 93. The provisions of Art. 8, 18a, 21, 22, 23, Art. 24 (1), items 1, 2, 3, 8, 12 and 13 and Art. 36 shall apply respectively to radio and television organizations.

Chapter Eleven "a"

Rights of Database Authors

Holder Of The Right

Art. 93b (1) Holder of the right in databases shall be their maker.

(2) Database maker under this Chapter shall be the natural person or legal entity that has taken the initiative and run the risk of investing in the compilation, verification or use of the contents of a database, provided such investment is substantial, evaluated qualitatively or quantitatively.

Contents of the Right

Art. 93c (1) The database maker shall be entitled to prohibit:

1. the extraction of the contents of the database or a substantial part thereof, evaluated qualitatively or quantitatively, to another medium, by permanent or temporary transfer, by any means or in any form.

2. the re-utilization of the database contents or a substantial part thereof, evaluated qualitatively or quantitatively, by making it available to the public in any form, including the distribution of copies, their renting or digital transmission.

(2) Lending shall not constitute an act of extraction or re-utilization under

(1).

(3) The right referred to in (1) may be transferred or granted to third parties.

(4) The database maker shall be entitled to prohibit the acts referred to in (1)

with regard to insubstantial parts of its contents, in case these acts are repeated and systematic in a manner that conflicts with the normal exploitation of the database or may prejudice the legitimate interests of its maker.

Exhaustion Of the Right

Art. 93d. (1) The first sale of a material copy of a database on the territory of Bulgaria by the holder of the right under Art. 93c or with his consent shall exhaust the right to control resale of that copy within the country.

(2) The transmission of a database in a digital form, including such in a communication network, shall not exhaust the right of distribution as regards material copies of the database made by the user with the consent of the right holder under Art.93c.

Collision With Other Rights

Art. 93e (1) The right referred to in Art. 93c shall arise irrespective of the eligibility of the database or parts of its contents for protection by copyright or other rights.

(2) The right referred to in Art. 93c shall be exercised without prejudice or limitation of copyright or neighbouring rights in the database contents.

Rights and Obligations of Lawful Users

Art. 93f (1) Where a database is made available to the public in whatever manner, the maker may not prevent the extraction or re-utilization of an insubstantial part of its contents for whatever purposes by the person who has lawfully acquired access to it. In case a lawful user has the right to extract and utilize only part of the database, this provision shall apply only in respect to that part.

(2) A lawful user of a database, which has been made available to the public in whatever manner, may not perform acts, which conflict with the normal exploitation of the database or prejudice the legitimate interests of its maker.

(3) A lawful user of a database, which has been made available to the public in whatever manner may not cause prejudice to the holder of a copyright or neighbouring right in respect to works or other subject matter contained in the database.

Exceptions

Art. 93g. A lawful user of a database which is made available to the public in whatever manner may, without the authorization of its maker, extract or re-utilize according to Art. 93c a substantial part of its contents:

1. In case of extraction for private use of the contents of a non-digital database.

2. In case of extraction for the purposes of illustration for teaching or scientific research to an extent justified by the purpose, provided the source is indicated.

3. In case of extraction or re-utilization for the purposes of national security or in an administrative or judicial procedure.

Duration

Art. 93h (1) The rights referred to in Art. 93c shall last for fifteen years. The term shall run from the first of January following the year during which the database has been completed.

(2) In case a database has been made available to the public in whatever manner before the expiry of the period provided for in (1), the term of protection shall expire after fifteen years from the first of January of the year following the date when the database was first made available to the public.

(3) Any further substantial investment in a database resulting in a substantial change in its contents, shall qualify the database part resulting from that investment for its own term of protection.

TITLE THREE PROTECTION OF COPYRIGHT AND NEIGHBOURING RIGHTS

Chapter Twelve CIVIL REMEDIES

Action for Compensation

Art. 94. (1) Any person who infringes copyright or a right, neighbouring to copyright, or a right under Art. 93c shall be liable to compensation for the damages incurred by the right owner or the person to whom exclusive user rights have been granted.

(2) When the grounds of the claim have been established, but there is not sufficient information about the amount of the compensation, the persons under paragraph

(1) may demand the following in place of compensation:

1. the revenue received as a result of the infringement;
2. the cost of the object of infringement at the retail prices of the lawfully reproduced copies, or

3. from 100 to 50 000 BGN, the exact sum being fixed at the discretion of the court.

Other Actions

Art. 95. Where a work or subject matter under Art. 72 is used in violation of the provision of this Law, the right owners or the person to whom the user right has been exclusively granted may bring an action in court for:

1. an injunction restraining the unlawful use;
2. seizure and destruction of the illegally produced copies of the work, including negatives, master copies, printing blocks and other material used for the purposes of copying;
3. seizure and disablement of the copying, decrypting and reproduction equipment used exclusively for committing the infringement;
4. delivery to him of the articles mentioned in item 2.

Competent Courts

Art. 96. The disputes under this Law shall be settled by the district courts.

Guarantee measures

Art. 96a. (1) When copyright or a neighbouring right has been infringed or when there are sufficient grounds to consider that such infringement will be committed or evidence will be lost, destroyed or concealed, the court, at the request of the right holder or of the person to whom the exclusive use right has been granted, may, without informing the other party, permit some of the following guarantee measures:

1. prohibition of the performance of the activity alleged to constitute or to be about to constitute an unlawful use of a work or subject matter under Art. 72;

2. seizure of the copies of the work or subject matter under Art. 72 that are alleged to have been unlawfully reproduced, as well as the negatives, printing blocks, stereotype plates and other material intended for the making of the copies;

3. prevention or prohibition of the use of machines which are alleged to have been or to be about to be used to commit violations;

4. sealing of the premises on which it is alleged that infringements are being or will be committed.

(2) The authorization, imposition and revocation of guarantee measures shall take place according to the procedures stipulated in Articles 165 to 170 inclusive and 308 to 322 inclusive of the Code of Civil Procedure, with the exception of the first sentence of Article 317 (2), and unless this Law provides otherwise.

(3) The safeguard measure consisting in prohibition of performance of the activity shall be imposed by virtue of a court order.

(4) The guarantee measures under paragraph (1), items 2, 3 and 4 shall be imposed by the bailiff, who shall at the same time serve notice of the authorization of the guarantee measure on the defendant. The property seized, together with a checklist, shall be handed over to be kept by the plaintiff who may use it only as evidentiary material.

(5) The plaintiff or his representative may be present and may cooperate when the guarantee measures are being imposed.

(6) The safeguard measures under paragraph (1), items 2, 3 and 4 shall be imposed within three days of that on which the bailiff has received the plaintiff's complaint. Guarantee measures that have been authorized to prevent an impending infringement shall be imposed within a term that takes account of their purpose.

(7) If it is established that an imposed guarantee measure has been requested without grounds, the aggrieved party may demand that the person who has requested the measure pay for the damages incurred thereby.

Chapter Twelve "a"

Border Measures

Grounds and Field of Application

Art. 96b. (1) A copyright holder of a neighbouring right or a right under Art. 93c, or the person to whom an exclusive right to use has been granted, may request the customs authorities to suspend any goods transported across the state border of the Republic of Bulgaria regarding which there is reasonable grounds to consider that they infringe rights protected by this Law. To cover suspense expenses, charges shall be payable at a rate laid down in a tariff adopted by the Council of Ministers.

(2) When the state of residence or the registered office of the petitioner is outside this country, an address for service within the territory of the Republic of Bulgaria shall be provided.

(3) The provisions of this Chapter shall also apply to temporary imports and exports.

(4) The suspension measure shall not apply to goods transported by passengers in small quantities for non-commercial purposes, to small parcels sent by parcel post or to goods in transit.

Procedure of Suspension

96c. (1) Suspension shall be effected on the basis of a petition in writing lodged by a person under Art. 96b (1) which petition shall contain proof of the petitioner's rights, and also of the ground to consider that the rights have been infringed.

(2) After establishing the existence of the circumstances provided for in Art. 96b (1), the customs authorities shall suspend the goods and shall impose on the petitioner a guarantee in money or property which shall cover his probable liability should the suspension of goods is found unreasonable.

(3) The customs authorities shall without delay notify the petitioner, the consignor and the consignee of the suspension of the goods. The same persons shall be entitled to inspect the suspended goods and to receive information about them.

(4) If, within 10 working days from the date of being notified under paragraph (3) for the suspension of goods, the petitioner does not present any proof that legal proceedings have been initiated before the relevant court to settle the dispute upon its merits, or that a guarantee measure has been authorized, the customs authorities shall release the suspended goods, provided that all requirements for standard import or export have been satisfied. The release of the guarantee lodged shall take place according to the procedure established by Art. 322 (2) of the Code on the Civil Procedure. If the petitioner files a well grounded request, the term may be extended by another 10 working days.

(5) The competent authorities before which the legal procedure under paragraph (4) has been initiated shall decide, upon request by the interested party, whether the suspension measure is to be confirmed, modified or revoked.

(6) Where after the request for suspension no procedure under paragraph (4) is initiated or where the request proves to have been groundless, the aggrieved party shall be entitled to indemnification.

Actions Initiated by Customs Authorities

96d. (1) The customs authorities may on their own initiative or upon request by another government agency suspend goods regarding which they have reasonable ground to consider that they infringe the rights protected by this Law.

(2) In such cases, the customs authorities shall without delay inform the persons under Art. 96b (1), the consignor and the consignee and shall give them the opportunity to inspect the suspended goods. The customs authorities may demand the right holder or the owner of neighbouring rights to provide any information that may be needed for an expert assessment.

(3) The decision under paragraph (1) may be appealed according to the procedure established by the Code on the Administrative Procedure.

(4) If, within 10 working days from the day on which the goods were suspended, no procedure is initiated before the relevant court to settle the dispute upon its merits or no ruling is pronounced by the court on the authorization of a guarantee measure, the customs authorities

shall release the suspended goods, provided that all standard import and export requirements are satisfied.

(5) The customs authorities shall not be liable for any action they have undertaken in good faith to suspend the goods.

Additional Regulation

96e. The Council of Ministers shall issue a regulation on the implementation of this Chapter.

Chapter Thirteen

ADMINISTRATIVE-PENAL PROVISIONS

Penalties

Art. 97. (1) Any person who in violation of the provisions of this Law:

1. reproduces and distributes video carriers embodying recorded films or other audiovisual works;
2. reproduces and distributes audio carriers embodying recorded works;
3. organizes, in whatever manner, public showings of films or other audiovisual works;
4. offers third parties sound or video recording services consisting in the preparation of single copies of works or other material protected by this Law;
5. organizes the live or recorded public performance or presentation of works;
6. broadcasts by wireless, cable or other technical means works or a radio or television program;
7. publishes or distributes already published works;
8. owns a computer program, knowing or having grounds to believe that this is an infringement;
9. reproduces or distributes or otherwise uses a computer program;
10. reproduces or distributes works of applied art, design and crafts, photographic works or works made in a manner comparable to photography;
11. uses unlawfully a work under art. 3, paragraph 1, items 6 and 8.
12. impedes the execution of a provisional measure under article 96a;
13. does not fulfill an obligation under Art. 26 (2);
14. violates a ban under Art. 93c

shall be liable to a fine or pecuniary sanction ranging from 200 to 2,000 BGN, unless the infringement is subject to more severe penalty; subject matter of the infringement, regardless of whose property may be, shall be seized in favour of the State and shall be handed over for destruction by agencies of the Ministry of Interior.

(2) A repeat offence under paragraph (1) committed within one year of the imposition of the previous penalty shall be punished with a fine or pecuniary sanction ranging between 1,000 and 5,000 BGN; subject matter of the infringement, regardless of whose property it may be, shall be seized in favour of the State and shall be handed over for destruction by agencies of the Ministry of Interior.

(3) In the event of systematic infringement, the facility where the infringements have been committed, such as a shop, studio, restaurant, movie theatre, theatre, company head office, etc. shall be closed for a term of three to six months.

(4) Societies conducting collective administration of rights under this Law, which act in violation of Art. 40 (4) shall be liable to a fine of between 200 and 2,000 BGN.

(5) The sanctions under paragraphs (1) and (2) shall be imposed on any person who produces, distributes, advertises or imports, or possesses for commercial purposes, a decrypting device capable of affording access to an encrypted signal for persons who are outside the reception area specified by the broadcasting organization.

(6) The sanctions under paragraph 1 and 2 shall be imposed also on persons who, without having the right, remove, modify, destroy or disrupt technological means of protection knowing or having grounds to know that these devices are primarily designed for such purposes.

(7) The sanctions under paragraphs 1 and 2 shall be imposed also on persons who manufacture, import, distribute, sell, rent, offer for sale or rental, or possess for commercial purposes devices, products or components which are primarily designed to remove, damage, destroy or disrupt technological means of protection, or persons who provide services for such circumvention with commercial purposes.

(8) The sanctions under paragraphs (1) and (2) shall also be imposed on any person who does the following without authority and being aware or having reason to believe that the act is liable to cause, permit, facilitate or conceal the infringement of a right protected by this Law:

1 . removes or modifies information in electronic form on the regime of rights in the subject matter of copyright or neighbouring rights;

2. distributes, including import for the purposes of distribution, performs in public, broadcasts by wireless or transmits via cable or other technical means subject matter of copyright or neighbouring rights, offers an unlimited number of persons access to subject matter in a manner whereby that access may be had from a place and at a time individually chosen by each of those persons, knowing that the information in electronic form on the regime of rights in the subject matter has been removed or modified without authority.

(9)"Rights management information" as used in Art.7 means information which identifies the subject matter of copyright or neighbouring right, the holder of such a right, information about the terms and conditions of use of such subject matter, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of the subject matter or appears in connection with its disclosure to the public.

Establishment of Infringements,

Issue of Acts for Establishment and Penal Ordinances Art. 98. (1) The acts establishing infringements under Art. 97 shall be issued by bodies duly empowered by the Minister responsible for culture with the assistance of agencies of the Ministry of Interior.

(2) The penal ordinances shall be issued by the Minister responsible for culture or by officials authorized by him.

(3) The establishment of the existence of infringements and the issue, appeal and enforcement of the penal ordinances shall be conducted in accordance with the Law on the Administrative Offences and Penalties.

(4) Fifty per cent of the funds from fines raised under Art. 97 shall be credited to the account of the National Culture Fund; the balance shall be credited to the budget of the

Ministry of Culture and shall be disbursed for the protection of copyright; the conditions and procedure for allocation of funds shall be specified by the Council of Ministers.

TITLE FOUR APPLICABLE LAW

Applicable Law for Literary, Artistic and Architectural Works

Art. 99. (1) This Law shall apply to:

1. works, whose authors are citizens of the Republic of Bulgaria or persons, who have a permanent address in the country, irrespective of where the works have been published for the first time;
2. works, whose authors are citizens of a state, with which the Republic of Bulgaria is bound by an international copyright treaty, or persons who have a permanent address in such a country, irrespective of where the works have been published for the first time;
3. works, which have been published for the first time or have been implemented as architectural designs on the territory of the Republic of Bulgaria or on the territory of a state, with which the Republic of Bulgaria has concluded an international copyright treaty, irrespective of the nationality of their authors;
4. works, which have been published for the first time on the territory of a state, with which the Republic of Bulgaria is not bound by an international copyright treaty but simultaneously or within a period of thirty days after the publication have been published on the territory of the Republic of Bulgaria or on the territory of another state with which the Republic of Bulgaria has concluded such a treaty.

(2) Where this Law applies to works created by nationals of other states or to works which have been published for the first time abroad the copyright owner shall be determined in accordance with the relevant foreign law.

(3) With respect to works created by citizens of foreign States, or to works first published abroad, the term of copyright shall be that specifies by the relevant foreign law, if it provides for a protection term shorter than that specified in this Law.

Applicable Law for Performances

Art. 100. (1) This Law shall apply for the performances of the performers who are citizens of the Republic of Bulgaria or have a permanent address in the country, irrespective of where the performances have taken place;

(2) This Law shall apply also to the performances of foreign performers, which have taken place on the territory of the Republic of Bulgaria.

Applicable Law for Recordings, Programs and Films

Art. 101. This Law shall apply to subject matter under Art. 72 items 2, 3, and 4, made by physical persons who are citizens of the Republic of Bulgaria or have a permanent address in the country, or by legal entities, whose headquarters are located in the country, irrespective of where they have been made, as well as to the recordings made or simultaneously published for the first time by foreign persons on the territory of the Republic of Bulgaria.

Applicable Law to Database Makers

Art. 101 a (1) This Law shall apply to database makers in case they are citizens of the Republic of Bulgaria or have a permanent address in the country.

(2) The provision of paragraph I shall apply to legal entities, established in compliance with the legislation of the Republic of Bulgaria, which have their headquarters, central administration or main activities in the country. In case the legal entity has only its headquarters in the Republic of Bulgaria, it shall be required that its activities have a real connection with the economy of the country.

Application of International Treaties

Art. 102 (1) The rights of the foreign performers, producers of phonograms and radio and television organizations and film producers other than those, set out in Art. 100 (2) and Art. 101, shall be protected in compliance with the international treaties on rights neighbouring to copyright to which the Republic of Bulgaria is party.

(2) Foreign database makers shall be protected in accordance with the international treaties to which the Republic of Bulgaria is party.

ADDITIONAL PROVISIONS

§ 1. (1) The copyright owner or a person who has been granted the exclusive right to use a work protected by this Law, may place the Latin letter "C", encircled, in a suitable position on copies of the work, followed by his name and the year of the first publication.

(2) The producer of a phonogram or the person, who has been granted the exclusive right to reproduce a phonogram protected by this Law, may place a circled Latin letter "C", followed by his name or title and the year of the first publication.

§ 1a. (1) It shall not be permissible to acquire, appropriate or keep for commercial purposes durable material media containing copyright-protected subject matter that has been reproduced in violation of this Law.

(2) The durable material media under paragraph (1) shall be seized in favour of the State on the basis of an order issued by the relevant penal administrative body, or by a court, and shall be handed over for destruction by agencies of the Ministry of Interior.

§ 2. Within the meaning of this Law:

1. "making a work available to the public" means bringing the publication with the consent of its author, to the attention of an unlimited number of persons for the first time, irrespective of the form and manner in which this is done;

2. "publication of a work" means bringing a work to the attention of an unlimited number of persons through reproduction and the distribution of copies, including in the form of

audio or video recording, the number of which shall be adequate in relation to the nature of the work;

3. "reproduction of a work" means directly or indirectly duplicating the work or part thereof in one or more copies, in any manner and in any form whether permanent or temporary, including the digital storage of the work on an electronic medium;

4. "distribution of a work" means the sale, exchange, donation, rental or lending, or the offer to sell or rent originals or copies. The renting or lending of works of architecture or applied art and craft works shall not be considered distribution under this Law;

5. "broadcasting a work by wireless means" means broadcasting it on radio or television, or by terrestrial means, as well as transmitting it in the form of a signal to a satellite and back to earth so that it may be received either directly and individually by the public, or through an intermediary other than the transmitting authority;

6. "users of a work" are the physical persons or the legal entities, such as publishers, theatres, concert organizers, radio and television organizations, public catering and entertainment establishments, producers of phonograms, film producers, Internet content providers and others, who bring the work to the attention of readers, spectators and listeners directly or through the intermediary of other persons - distributors;

7. "audio recording" means the fixation on a durable material medium of a sequence of sounds in such a way as to permit them to be perceived, reproduced, rerecorded and broadcast by wireless, cable or other technical means;

8. "phonogram" means the product of audio recording;

9. "architectural works " means buildings and other structures and their components, durable objects resulting from the synthesis of architecture and other arts, as well as durable interior decoration that conform to the general definitions of Art. 3 (1);

10. "means of decrypting" is any device, appliance, mechanism or decoding card which has been made or specially adapted to provide, by itself or in combination with others, access to an encrypted signal in the form that it had prior to encryption;

11. "encrypted signal" means any radio or television signal that is broadcast, transmitted, re-broadcast or retransmitted by any technical means the characteristics of which have been deliberately modified to restrict access to the signal to a predetermined audience;

12. "audiovisual works" means sequences of interconnected images fixed on any type of medium, with or without a sound-track, perceived as a moving picture and used in any manner, which satisfy the general conditions set forth in Art. 3 (1).

13. "a database" is a collection of independent works, data or other materials which are arranged in a systematic or methodical way and individually accessible by electronic or other means. Computer programs used in the making or operation of databases, the recordings of a separate audiovisual work, work of literature or musical work, as well as the compilation of recordings of musical performances on CD shall not be deemed databases within the meaning of this Law.

14. "technological measures" means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts in respect of works or other subject-matter protected by this Law, which are not authorized by the right holder, if through these measures the use of protected subject matter is controlled by the right

holder through an access code, scrambling or other transformation of the subject matter or a copy control mechanism.

§ 3. The definitions of items 1, 2, 3, 4 and 5 of the preceding paragraph shall also apply to the subject matter specified in Art. 72.

§ 4. (1) Each copy of a work of fine art signed personally by its author shall be deemed to be an original. The number of originals shall be determined by the author and shall be stated in an appropriate manner at the first disclosure of the work whereby it shall not be subject to subsequent change. Each copy shall carry a serial number.

(2) The provision of paragraph (1) shall not apply to works of applied art, design and craft works.

§ 5.(I) The amount of compensation payable to the copyright or neighbouring right owners for the use of their works, performances, phonograms and radio and television programs shall be negotiated in a contract between the right owners and the users.

(2) Whenever use is negotiated through a society for collective administration of rights, the amount of the compensation shall be fixed in a contract between the said society and the users or their associations.

§ 5a. (1) The manufacture of compact discs and matrices for their manufacture shall be carried out only by licensed persons.

(2) The licensing of manufacturers referred to in (1), as well as the terms and conditions for the manufacture and distribution of recorded CDs and other carriers, containing subject matter of copyright and neighbouring rights, and matrices for their manufacture shall be set forth by the Council of Ministers.

TRANSITIONAL AND FINAL PROVISIONS

§ 6.(I) This Law shall also apply to works, performances, phonograms, and radio and television programs, created or made prior to its entry into force if the terms for protection provided therein have not expired.

(2) The authors' rights acquired prior to the entry into force of this Law shall remain in force.

§ 7. The author of a literary text, which has been used without his consent in a musical work pursuant to Art. 7 (b) of the 1951 Copyright Law may not prevent the further use of the musical work together with the text if the two have already been made available to the public together.

§ 8. (1) The Copyright Agency is hereby abolished.

(2) The assets of the Copyright Agency shall pass to the Ministry of Culture.

(3) The Council of Ministers shall determine the terms and procedures for the distribution of the assets of the Agency among the organizations under Art. 40 of this Law.

§ 9. The following are hereby repealed:

1. The Copyright Law (published in *Izvestia* No 92, 1951; as amend. in No 10/1952 and No 55/1956, *Durzhaven Vestnik* No 35/1972 and No 30/1990);

2. Articles 270 to 278 of the Code on Obligations and Contracts (published in *Durzhaven Vestnik* No 275/1950, as amend. in *Izvestia* No 2/1951, No 69/1951 and No 92/1952, *Durzhaven Vestnik* No 85/1963, No 27/1973, No 16/1977, No 28/1988, No 30/1990 and No 12/1993).

§ 10. This Law shall enter into force on 1 August 1993.

§ 11. The implementation of this Law shall be entrusted to the Council of Ministers.

TRANSITIONAL AND FINAL PROVISIONS of the Law to Amend the Law on Copyright and Neighbouring Rights (*Durzhaven vestnik* No28/2000)

§51 (1) This law shall also apply to works and subject matter under Art.72 created or made prior to its entry into force, provided the terms of protection set forth in it have not expired yet.

(2) Copyright holders cannot lay claims regarding uses of their works occurring at a time when the term of protection of those rights had already expired as provided under the then existing law.

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§ 53. The words "ministry responsible for culture" shall be replaced by "Ministry of Culture".

§ 54. (1) This Law shall enter into force one month after its publication in *Durzhaven vestnik* with the exception of paragraph 8, which enters in force on 1 January 2000.

(2) The Council of Ministers shall adopt regulations to implement paragraph 8 within a six-month period upon entry into force of this Law, whose regulations will be retroactively in force since 1 January 2000.

TRANSITIONAL AND FINAL PROVISIONS of the Law to Amend the Law on Copyright and Neighbouring Rights (*Durzhaven vestnik* No77/2002)

§ 38 (1) The provisions of Art. 93b shall apply with regard to databases or parts thereof, whose creation was completed before this Law comes into effect, if the terms under Art. 93h have not expired.

(2) The right holders under Art. 93c shall not be entitled to laying claims regarding any actions carried out before this Law comes into effect.

§ 39. (In force as of 09.08.2002) The Council of Ministers shall adopt the regulations under paragraph 14 (new Art. 71a) and paragraph 37, item 2 (new paragraph 5a) by January 1, 2003.

§ 40. This Law shall enter into force as of January 1, 2003, excepting paragraph 39 which shall enter into force as of the day this Law is published in *Durzhaven vestnik*.