

LAW OF THE REPUBLIC OF THE TAJIKISTAN

“ON COPYRIGHT AND RELATED RIGHTS”

Title I. General Provisions

Article 1. Subject of the law

This Law governs the relations arising from the creation and exploitation of scientific, literary and artistic works (copyright) and of phonograms, performances and the programs of broadcasting or cable distribution organization (Related rights).

Article 2. Legislation of the Republic of Tajikistan on copyright and related rights

The legislation of the Republic of Tajikistan on copyright and related rights is based on the Constitution of the Republic of Tajikistan and consists of this Law, other legislative texts of the Republic of Tajikistan that are enacted pursuant to this Law, as well as international agreements recognized by Tajikistan.

Article 3. Basic concepts using in this law

The following terms are used in this Law:

- 1) author – means the natural person whose creative effort has brought about the creation of a work;
- 2) audiovisual work – means a work consisting of a fixed series of interconnected images (with or without sound accompaniment) which is intended to be made visible and (where the images are accompanied by sound) audible with the aid of appropriate technical equipment; audiovisual works include cinematographic works and all works expressed by means comparable to cinematography (television films, video films, fixed projections, slide shows and the like), regardless of the manner in which they are initially or subsequently fixed;
- 3) data base – means a body of data in computerreading or other form, which, by reason of the selection or arrangement of their contents, constitute the result of intellectual creativity.
- 4) reproduction of a work – means the taking of one or more copies of the work or of part of a work in any form, including the form of a sound or visual recording, reproduction is also recording of a work for permanent or temporary keeping in computerreading form as well as input into internal or external memory of a computer;
- 5) phonogram - means any exclusive sound recording of performances or of other sounds;
- 6) reproduction of a phonogram – means the taking of one or more copies of a phonogram or part of a phonogram on any physical medium;
- 7) recording – means the realization, with technical aids, of sounds or images or both in a material form that permits them to be repeatedly perceived, reproduced or communicated;
- 8) producer of an audiovisual work - means the natural person or legal entity that has taken the initiative of and responsibility for the production of the work; in the absence of proof to the contrary, the natural person or legal entity named in the customary

manner on an audiovisual work shall be considered the producer of that work;

9) phonogram producer - means the natural person or legal entity that has taken the initiative of and responsibility for the first recording of the sounds of a performance or of other sounds; in the absence of proof to the contrary, the natural person or legal entity named in the customary manner on the phonogram or on the sleeve or inlay card thereof shall be considered the producer of the phonogram;

10) exclusive right – means the right which belongs to an author (authors) of a work that is the product of his (their) creative work, when not other person may use the work not having suitable permission (license), except in the cases provided by this Law;

11) performance - means the presentation of work, phonograms., interpretations or renditions by means of acting or playing, recitation, singing or dancing, either live or with technical aids (broadcasting, cable television or the like) or by the showing of the pictures of an audiovisual work (with or without sound accompaniment) in their normal sequence;

12) performer - means the actor, singer, musician, dancer or any other person who performs, recites, declaims, sings, plays on a musical instrument or in any other way presents a literary or artistic work (including a variety turn, circus act or puppet show), and also the producer or director of a show and the orchestra conductor;

13) owner of copyright and related rights means the followings:

- the author or the performer allotted with copyright or related rights;
- other natural person or legal entity not the author or the performer in cases when the natural person or legal entity was allotted with economic rights primarily;
- the natural person or legal entity which possesses economic rights by succession or law-succession;

14) publication (publishing) - means the putting into circulation of copies of the work or phonogram with the consent of the author of the work or phonogram producer and in sufficient quantity to meet the reasonable needs of the public, due account being taken of the character of the work or phonogram;

15) broadcasting - means the communication to the public of works, phonograms, performances or programs of broadcasting or cable distribution organizations (including broadcasts of the presentation or performance) by means of transmission by radio or television (with the exception of cable television); where works, phonograms, performances or programs of broadcasting or cable distribution organizations are relayed by satellite, broadcasting means the act whereby the satellite receives signals from the ground station and retransmits those signals in such a way that works, phonograms, performances or programs of broadcasting or cable distribution organizations may be communicated to the public, independently of their actual reception by the said public;

16) broadcasting by a broadcasting or cable distribution organization - means the broadcast created by the broadcasting or cable distribution organization itself, or, on its instructions and with its funds, by another organization;

17) presentation of a work - means the fact of showing the original or a copy of the work, either direct or on a screen with the aid of film, photographic slides, television

- pictures or other technical means, or the fact of showing the individual images of an audiovisual work without concern for their order;
- 18) computer program – means the a body of instructions expressed by words, codes, symbols, signs, diagrams or in other form which can be used by computer or other data processing machine for the aim of producing of result. The term covering both the operating system and the applied program expressed by source or objective code including the preparatory literature produced while the computer program is being developed and the audiovisual displays generated by the program itself doesn't extend to the term of data base;
- 19) public presentation (public performance) - means any presentation of an original or a copy of work, performances, other productions or broadcasts of broadcasting or cable distribution organizations, either direct or on the screen with technical aids (film, slide, etc) in the place or places where the performance can be perceived without realization of communication in which a large number of persons not belonging to the usual family circle are present, irrespective of whether they present in only place and one and the same time or in different places and at different times;
- 20) public presentation of audiovisual work – means any demonstration of separate pictures of audiovisual work out of their succession;
- 21) reprographic reproduction - means the facsimile reproduction in one or more copies, regardless of the dimensions and form thereof, of originals or copies of written or other graphic works by means of photocopying or with the aid of other technical means different from publishing; reprographic reproduction shall not include the storage or reproduction of the said copies in electronic (including digitized) or optical form, or in any other machine-readable form;
- 22) rental - means making a copy of a work or phonogram temporarily available for direct or indirect commercial profit;
- 23) communicate - means to show, perform or broadcast or engage in any other act (except for the distribution of copies of the work or phonogram) whereby the works, phonograms, performances or programs of broadcasting or cable distribution organizations are made audible or visible, whether or not they are actually perceived by the public;
- 24) communicate to the public by cable - means to communicate works, phonograms, performances or programs of broadcasting or cable distribution organizations to the public by cable, wire, optic fiber or comparable means.

TITLE II. COPYRIGHT

Article 4. Scope of copyright

By virtue of this Law, copyright extends to works:

- 1) authors of which are nationals of the Republic of Tajikistan or have permanent place of residence within the territory of the Republic of Tajikistan;
- 2) first published within the territory of the Republic of Tajikistan (including the works first published in other country within 30 days of its first publication within the Republic of Tajikistan) or unpublished but existing in an objective form within the territory of the Republic of Tajikistan irrespective of nationals or permanent place of

residence of their authors;

3) that is granted protection under international treaties to which the Republic of Tajikistan is party.

Article 5. Objects of copyright. General provisions

Copyright extends to scientific, literary and artistic works that are the product of creative work, regardless of the purpose, the merit and the manner of expression thereof.

The works must be expressed in an objective form, namely:

- 1) written form (manuscript, typewritten text, musical score, etc.); oral form (public recitation, public performance, etc.);
- 2) oral form (public pronouncement, public performance, etc.);
- 3) sound or visual recording (mechanical, magnetic, digital, optical, etc.);
- 4) figurative form (drawing, sketch, painting, plan, industrial design, still picture from a cinematographic or television or video film, photograph, etc.);
- 5) three-dimensional form (sculpture, model, mock-up, structure, etc.); any other form.
- 6) In any forms permitting perceiving of the works.

Ideas, methods, processes, systems, means, concepts, principles, discoveries and facts may not be protected by copyright.

The copyright in a work is independent of the ownership of the material object in which the work is expressed.

The transfer of the ownership of the material object shall not in itself constitute transfer of any copyright to the work embodied in that object.

Article 6. Works protected by copyright

The following are protected by copyright:

- 1) oral works (speeches, lectures, reports, etc.)
- 2) literary works (belles-lettres, scientific, educational, publicistic, etc., including computer programs both source text and objective code);
- 3) dramatic or dramatico-musical works and other works with a scenario;
- 4) choreographic and mimed works;
- 5) musical works with or without accompanying text;
- 6) audiovisual works;
- 7) works of painting and sculpture, graphic and design works, cartoon strips and other works of figurative art;
- 8) works of architecture, urban planning and park and garden design;
- 9) photographic works and works obtained by processes analogous to photography;
- 10) geographical, geological and other maps, plans and sketches, and also three-dimensional works relating to geography, topography and other sciences;
- 11) derived works (translations, adaptations, annotations, analyses, summaries, reviews, stage adaptations, arrangements and other transformations of scientific, literary and artistic works);
- 12) collections (encyclopaedias, anthologies, data bases) and other composite works which, by reason of the selection or arrangement of their contents, constitute the result of creative effort.

Derived works and composite works shall be protected by copyright whether or not the works on which they are based, or which they themselves include, are protected by copyright.

Article 7. Works not protected by copyright

The following are not protected by copyright:

- 1) official documents (laws, court decisions, other texts of legislative, administrative or judicial character) and official translations thereof;
- 2) state emblems and official signs (flags, armorial bearings, decorations, monetary signs and other State symbols and official signs);
- 3) communications concerning events and facts that have informational character;
- 4) works of folklore.

Article 8. Subjects of copyright

A subject of copyright is an author.

A natural person named when publishing of the work whose name is marked on the manuscript or on the original of the work shall be considered the author.

Article 9. Origin of copyright. Presumption of authorship

1. A scientific, literary or artistic work is eligible for copyright by virtue of the mere fact of its creation. The origin and exercise of copyright shall not require either registration of the work or the performance of any other act or formality.

In order to have his rights recognized, the owner may use a copyright notice which should be placed on every copy of the work and should consist of the following three elements:

- 1) a circled capital letter C: (C);
- 2) the name of the owner of the exclusive rights;
- 3) the year of first publication of the work.

In the absence of proof to the contrary, the person named as the author on the original or on a copy of the work shall be deemed the author thereof.

Where a published work is anonymous or pseudonymous (unless the author's pseudonym leaves his identity in no doubt), the publisher named on the work shall be presumed, in the absence of proof to the contrary, to represent the author and, in that capacity, shall be empowered to defend and exercise the author's rights. This provision shall remain in force until such time as the author of the work reveals his identity and claims authorship of the work.

Entity possessing copyright or any persons having any exclusive right to the work may realise registration of the work within the duration of the copyright in the order determine by an agency authorized by the Government of the Republic of Tajikistan in the field of the protection of copyright and related rights (hereinafter - authorized agency) for giving of certification about authorship to published or unpublished work, about the fact and the date of publishing of the work or agreements concerning copyright.

A person possessing material object in which the work is embodied may not block entity possessing copyright to register his work.

Article 10. Works of joint authorship

The copyright in a work that is the product of the joint creative work of two or more persons (work of joint authorship) shall belong jointly to the coauthors, regardless of whether it constitutes an indivisible whole or is composed of parts, each with a relevance of its own.

A part of a work shall be deemed to have a relevance of its own if it can be exploited independently of the other parts of the same work.

Unless otherwise agreed between themselves, each of the coauthors keeps for himself his moral and economic rights to that part of the work with a relevance of its own that he has created.

The relations between the coauthors may be the subject of an agreement between them. For the lack of the agreement the copyright to the whole work shall belong jointly to the coauthors and royalties shall be distributed in equal quantity.

If the work of the coauthors constitutes an indivisible whole, none of them shall be entitled to prohibit the exploitation of the work without valid reason.

Article 11. Copyright of compilers of collections and other works

The author of a collection or any other composite work (compiler) shall enjoy copyright in the selection or arrangement of subject matter that he has made insofar as that selection or arrangement is the result of a creative effort of compilation.

The compiler shall enjoy copyright subject to respect for the rights of the authors of each work included in the composite work.

Each of the authors of the works included in the composite work shall have the right to exploit his own work independently of the composite work unless the author's contract provides otherwise.

Copyright to compilations which are not protected by copyright such as laws, court decisions, other official documents, ancient acts and written monuments and others belong to the compilers if they realized an independent selection or arrangement of the subject matter included in the compilation.

Notwithstanding the copyright of the compiler, any third party may make an independent selection or arrangement of the same subject matter for the purposes of the creation of a composite work of his own.

The exclusive right to exploit encyclopedias, encyclopedic dictionaries, collections of scientific works published in either one or several installments newspapers, reviews and other periodical publications shall belong to the editor thereof. The editor shall have the right to mention his name or to demand such mention whenever the said publications are exploited. The authors of the works included in the said publications shall retain the exclusive rights to exploit their works independently of the publication of the whole work.

Article 12. Copyright of translators and other authors of derived works

Translators and other authors of derived works shall enjoy copyright in translations, adaptations, arrangements or any other transformations made by them.

The translator or other author of a derived work shall enjoy copyright in the work created by him, subject to the rights of the author of the work that he has translated, adapted, arranged or otherwise transformed.

Notwithstanding the copyright of the translator or other author of a derived work, third parties may make their own translations or transformations of the same work.

Article 13. Copyright in audiovisual works

The following shall be recognized as authors of an audiovisual work:

the director or maker;

the author of the scenario;

the author of the musical work (with or without words) that has been specially created for that audiovisual work (composer).

The conclusion of a contract for the making of an audiovisual work shall constitute assignment, by the authors of the work to the producer thereof, of the exclusive rights of reproduction, public performance, communication to the public by cable, broadcasting, or any other public communication of the work, and also the exclusive subtitling and dubbing rights, unless otherwise provided in the contract. The said rights shall operate throughout the period of validity of the copyright in the audiovisual work.

The producer of the audiovisual work shall have the right to mention his name or to demand such mention whenever the work is exploited.

In the case of public performance of the audiovisual work, the author of the musical work (with or without words) shall retain the right to remuneration for the public performance of his musical work.

The authors of the works constituting the audiovisual work, whether pre-existing (for instance, the author of the novel from which the scenario is taken) or created in the making of the audiovisual work (for instance, the camera director or artistic director), shall each enjoy copyright in his work.

Article 14. Copyright in a service-related work

The copyright in a work created in the course of duty obligations or in the performance of an assignment expressly given by the employer (service-related work) shall belong to the author of the said work.

The exclusive right to exploit the service-related work shall belong to the person to whom the author is bound by employment relations (employer), unless otherwise provided in the contract concluded by the said person with the author.

If during three years from the moment of transferring of a work to employer under the task of which it is created, the employer doesn't use the work all rights to using of the work pass on to the author.

The rate of royalty payments for each type of use of a service-related work as well as payment procedures is determined in the agreement between the author and his employer.

The employer shall have the right to mention his name or demand such mention in connection with any exploitation of the service-related work.

The provisions of this Article shall not apply to the making, in the course of duty obligations or the performance of an assignment expressly given by the employer, of encyclopedias, encyclopedic dictionaries, collections of scientific works published in one or in several installments newspapers, magazines and periodical publications (Article 11.2 of this Law).

Article 15. Moral rights of authors

The author shall enjoy the following moral rights in relation to his work:

- 1) the right to have his authorship of the work recognized (right of authorship);
- 2) the right to exploit the work or to authorize the exploitation thereof, either with the mention of his true name or his pseudonym or without any name being given, that is to say anonymously (right to be named);
- 3) the right to disclose the work or to authorize the disclosure thereof in any form (right of disclosure), including the right to disavow or withdraw;
- 4) the right to the protection of the work, including the title thereof, against any distortion or other derogatory act liable to prejudice his honor or dignity (right to the protection of the author's reputation);
- 5) the right to the inviolability of the work.

The author shall have the right to renounce a decision taken earlier to disclose the work (right to disavow or withdraw), provided that the user is indemnified for any damages, attributable to the said decision. If the work has already been disclosed, the author shall be bound to make the said withdrawal known to the public. He shall then have the right to withdraw from circulation, at his own expense, those copies of the work that have already been made.

The provisions of this paragraph shall not apply to service-related works.

Moral rights shall belong to the author independently of his economic rights, and the author shall retain them even where the exclusive right to exploit the work is assigned.

Article 16. Economic rights of authors

The author shall enjoy the exclusive right to exploit his works in any form and by any way. It means the right to perform or authorize the following acts:

- 1) reproduction of the work (right of reproduction);
- 2) distribution of copies of the work by any means, including sale, rental and other ways (right of distribution);
- 3) importation of copies of the work for the purposes of distribution, including that of copies made with the permission of the owner of exclusive rights (right of importation);
- 4) presentation of the work in public (right of public presentation);
- 5) performance of the work in public (right of public performance);
- 6) communication of the work to the public (including showing, performance or broadcasting) by broadcasting or rebroadcasting (right of broadcasting);
- 7) communication of the work to the public (including showing, performance or broadcasting) by cable, wire or comparable means (right of communication to the public by cable);

8) translation of the work (right of translation);

9) adaptation, arrangement or other transformation of the work (right of adaptation).

The exclusive rights of the author in relation to the project for a design work, an architectural work, a work of urban planning or a work of park or garden design shall extend also to the practical realization of the project. Unless otherwise provided by contract, the author of an accepted architectural project shall have the right to demand that the party who commissioned the work allow him to take part in the realization of his project at the stage of the production of the documentary material relating to the construction or at the stage of the actual construction of the building or other structure. Where copies of a lawfully published work have been put into circulation by means of sale, their subsequent distribution shall not require authorization by the author or other owner of copyright and shall not give rise to the payment of remuneration to the author.

The right to distribute copies of the work such as audiovisual works, computer programs, data bases, musical works in musical score and phonograms by means of rental shall belong to the author without regard to the ownership of the said copies. The amount and the manner of payment of remuneration to the author for each form of exploitation of the work shall be determined by the author's contract and by the contracts that organizations for the collective administration of economic rights conclude with users.

The rights of authors specified in part 2 of this Article shall be subject to the limitations specified in Article 19 to Article 21, 24 and 39 of this Law, which shall apply insofar as the uses in question do not unjustifiably prejudice the normal exploitation of the work and do not without valid reason violate the legitimate interests of the author.

Article 17. Term of copyright

1. Copyright shall have effect throughout the lifetime of the author and for 50 years after his death and it is transferable by succession except as provided in this Article. The author's right to claim authorship of his work, his right to be named as such and his right to protection for his reputation shall be protected without limitation in time. The author may, according to legislative order, specify the person to whom he entrusts the protection of the right of authorship, the right to be named and the right to protection for his reputation after his death. That person shall fulfil his mandate throughout his life.

Where no such person has been named, the protection of the right of authorship, the right to be named as author and right to protection for the author's reputation shall be ensured either by his heirs, in case of absence of heirs or after lapsing the heirs' copyright it shall be ensured by authorised agency.

The copyright in a work of joint authorship shall have effect until the death of the last surviving coauthor and for 50 years thereafter.

The copyright in an anonymous or pseudonymous work shall have effect for 50 years following the date of the lawful disclosure thereof. If, in the course of that period, the author of the anonymous or pseudonymous work reveals his identity, or if that identity is no longer in doubt, the provisions of the first part of this Article shall be applicable.

Copyright in a work first published during thirty years after his death shall have effect

for 50 years following the lawful publication of the work.

Any period under this Article shall be calculated as from January 1 of the year following that in which the legal act occurred that marks the starting point of the period.

Article 18. Expiration of the term of the copyright

On the expiration of the term of the copyright in a work, the work shall fall into the state domain.

Works that have never enjoyed protection within the territory of the Republic of Tajikistan shall likewise be deemed fallen into the state domain.

Works that have fallen into the state domain may be freely used by any person without payment of remuneration. However, the author's right to claim authorship, his right to be named as such and his right to protection for his reputation as author shall be respected provided by Article 15 of this Law.

The Government of the Republic of Tajikistan may specify those cases in which the use, on the territory of the Republic of Tajikistan, of works that have fallen into the state domain should give rise to the payment of a special royalty. That royalty shall be paid into an authors' professional fund or to an organization for the collective administration of the economic rights of authors, and it may not exceed 1% of the revenue derived from the use of the work in question.

Article 19. Reproduction of the work for personal purposes without the author's consent and without payment of remuneration

The reproduction of a lawfully published work for exclusively personal purposes which shall apply insofar as the uses in question do not unjustifiably prejudice the normal exploitation of the work and do not without valid reason violate the legitimate interests of the author shall be authorized without need for the author's consent or payment of remuneration, except in the cases provided for in Article 39 of this Law.

The provisions of paragraph 1 of this Article shall not apply:

- 1) to the reproduction of works of architecture in the form of comparable buildings and structures;
- 2) to the reproduction of data bases or substantial parts of data bases;
- 3) to the reproduction of computer programs, except in the cases provided for in Article 24 of this Law;
- 4) to the reproduction of books (in their entirety) and musical scores.

Article 20. Use of a work without the author's consent and without payment of remuneration but provided

that the name of the author and the source of the borrowing are mentioned

The following shall be authorized without the author's consent and without payment of remuneration, but provided that the name of the author whose work is used and the source of the borrowing are mentioned:

- 1) the quotation, in the original language or in translation, for scientific or for research, polemic, critical or informational purposes and to the extent justified by the intended purpose, of extracts from lawfully published works, including the reproduction of

- extracts from newspaper and magazine articles in press reviews;
- 2) the use of lawfully published works and of extracts from such works for the purpose of illustration in publications, radio or television broadcasts or sound or visual recordings of educational character, and to the extent justified by the intended purpose;
 - 3) the reproduction in newspapers, the broadcasting or communication to the public by cable of articles lawfully published in newspapers or magazines on economic, political, social or religious topics, or of broadcast works of the same nature, insofar as the author has not expressly prohibited such reproduction, broadcast or cable communication;
 - 4) the reproduction in newspapers, the broadcasting or communication to the public by cable of political speeches, addresses, lectures and other works of the same nature given in public, to the extent justified by an informational purpose. The author shall nevertheless retain the right to publish those works in collections;
 - 5) the reproduction or communication to the public, in connection with the reporting of current events by means of photography, broadcasting or public cable communication, of works that are seen or heard in the course of such events, to the extent justified by an informational purpose. The author shall nevertheless retain the right to publish such works in collections;
 - 6) the reproduction in Braille or by other special means for the benefit of the blind, done without gainful intent, of lawfully published works, with the exception of works created especially for such means of reproduction.
 - 7) reprographic reproduction in one copy and without gainful intent:
 - a) of a lawfully published work insofar as the reproduction is the work of a library or archive service and its purpose is to restore or replace lost or damaged copies, or to place copies at the disposal of other libraries that for any reason have lost works from their own collections if it is impossible to get the copy by other way;
 - b) of isolated articles or succinct works lawfully published in collections, newspapers or other periodical publications, or of short extracts from lawfully published written works (with or without illustrations), if the reproduction is the work of a library or archive service and it is done to meet the requirements of natural persons who will make use of the copies so obtained for study or research purposes;
 - c) of isolated articles or succinct works lawfully published in collections, newspapers or other periodical publications, or of short extracts from lawfully published written works (with or without illustrations), if the reproduction is the work of an educational establishment and the copy obtained is intended for classroom use.

Article 21. Use of a work without the author's consent and without payment of remuneration

It shall be permissible, without the consent of author or other entity possessing copyright and without payment of remuneration:

- 1) the reproduction, broadcasting or communication to the public by cable of architectural works, photographic works and works of fine art permanently located in a public place shall be permissible without the author's consent and without payment of remuneration, except where the presentation of the work constitutes the main feature of the said reproduction, broadcast or communication to the public by cable, if it is used for commercial purposes;

- 2) the public performance of musical works in the course of official or religious ceremonies and at funerals to the extent justified by the nature of the said ceremonies;
- 3) the reproduction of works for the purposes of judicial proceedings, to the extent justified by the said purposes;
- 4) making by a broadcasting organization an ephemeral recording of the work for which it has obtained the right of broadcasting, on condition that the organization makes the recording with its own equipment and facilities and for the purposes of its own broadcasts. The broadcasting organization is obliged to destroy the recording within six months after it was made, except where a longer period has been agreed upon with the author of the work recorded. The recording may be preserved in official archives without the author's consent if it is of purely documentary character.

Article 22. Right of access to works of fine art. Resale royalty

The author of a work of fine art shall have the right to demand of the owner of the work that he allow him to exercise the right of reproduction of his work (right of access), provided that the owner of the work may not be bound to deliver the work to the author to that end.

The transfer of ownership of a work of fine art (whether for consideration or free of charge) from the author to a third party shall constitute the first sale of that work. For each public resale of a work of fine art (sale by auction or at an art gallery or exhibition, in a shop, etc.), the seller shall pay the author remuneration representing 5% of the resale price (resale royalty). That right is inalienable and transferable only to the author's legal heirs throughout the duration of the copyright.

Article 23. Protection of interests of the person pictured in a work

Publication, reproduction and circulation of work of fine art where a person is pictured shall be permissible with the consent of the pictured person and after his death with the consent of heirs of the first place. The consent is not required if the pictured person posed for pay through an agreement.

Article 24. Free reproduction of computer programs and data bases. Decompilation of computer programs

Any person lawfully in possession of a copy of a computer program or data base may, without permission from the author or any other owner of the exclusive right to exploit the work and without paying any additional remuneration:

make alterations to the computer program or data base, where the purpose thereof is solely to ensure their operation on the user's material, and perform any act in relation to the operation of the computer program or data base according to its intended purpose, including any inputting or storing in a memory (that of an individual computer or that of one of the computers in a network), and also correct obvious errors, except where otherwise provided in the contract concluded with the author;

make a copy of the computer program or data base, provided that the copy is intended solely for archiving and for the replacement of a lawfully acquired copy in the event of the latter having been lost, destroyed or rendered useless, on the understanding that the copy of the computer program or data base may not be used for purposes other than

those specified in subparagraph (1) of this paragraph, and that it must be destroyed should the possession of the copy of the computer program or data base cease to be lawful.

Any person lawfully in possession of a copy of a computer program may, without permission from the author or any other owner of exclusive rights, and without paying any additional remuneration, reproduce or convert the object code making it into a source code (decompile the program) or have such acts performed by third parties, if they are essential to ensure the interactive capabilities of a computer program independently created by that person with other programs compatible with the program so decompiled, in which case the following conditions have to be fulfilled or observed:

- 1) the person concerned must not previously have had access to other sources capable of providing him with the information necessary to ensure the interactive capability;
- 2) the acts mentioned must only be performed in relation to the parts of the computer program the decompilation of which is essential to the achievement of the interactive capability;
- 3) the information obtained by decompilation may only be used for the achievement of the interactive capability of the independently created computer program with other programs; the information may not be passed on to third parties, except where necessary to ensure the interactive capability of the independently created computer program with other programs and it may not be used for the development of a computer program of a type essentially comparable to the decompiled computer program, or for the performance of any other act prejudicial to copyright.

The application of the provisions of this Article must neither unjustifiably affect the normal exploitation of the computer program or data base or, without valid grounds, prejudice the legitimate interests of the author or any other owner of exclusive rights in the computer program or data base.

Article 25. Authors' contracts. Assignment of economic rights.

The assignment or licensing of economic rights referred to in Article 16 of this Law shall be effected by means of an author's contract except as provided in Article 19 to Article 21, 24 and 39 of this Law.

Economic rights may be assigned on exclusive or non-exclusive basis (exclusive or non-exclusive license).

The author's contract for the assignment of exclusive rights shall allow only that person to whom the rights have been assigned to exploit the work by a specified means and within the limits set by the contract, and shall confer on that person the right to prohibit any comparable exploitation of the work by third parties (exclusive license).

The right to prohibit third parties from exploiting the work may be exercised by the author of the work where the person to whom the exclusive rights have been assigned does not avail himself of that right.

The author's contract for the licensing of non-exclusive rights shall allow the licensee to exploit the work under the same conditions as the owner of the exclusive rights who has granted those rights to him, or as other persons who have obtained permission to

exploit the work by the same means (non-exclusive license).

The rights to which an author's contract relates shall be deemed non-exclusive where the contract contains no express provisions to the contrary.

Article 26. Conditions governing the author's contract

The author's contract shall specify: the modes of exploitation of the work (the specific rights assigned or licensed under the contract), the period and the territory for which the rights are assigned or licensed, the amount of the remuneration payable for each of the modes of exploitation of the work, or the methods for the calculation of the amount of that remuneration, the procedures and the periods for the payment of the remuneration.

If the author's contract does not specify the period for which the rights are assigned or licensed, the author may terminate it on the expiration of a period of five years, following its conclusion, provided the user is notified of the termination in writing six months prior to the termination of the agreement.

If the author's contract does not specify the territory for which the rights are assigned or licensed, the rights concerned by the contract shall have effect only on the territory of the Republic of Tajikistan.

All the rights of exploitation of the work that are not expressly assigned or licensed under the author's contract shall be deemed not to have been assigned or licensed. The author's contract may not relate to exploitation rights that are not known at the time of its conclusion.

The author's contract shall specify remuneration in the form of a percentage of the revenue derived from exploitation of the work by the intended means or, where that is not possible in view of the nature of the work or the particular circumstances of the exploitation thereof, in the form of a lump sum or in any other manner but not lower minimum rates for the remuneration of the author.

The minimum rates for the remuneration of the author shall be set by the Government of the Republic of Tajikistan. The minimum amounts of author's remuneration shall be indexed at the same time as minimum wage amounts.

Where, in the author's contract for the publication or some other form of reproduction of the work, remuneration is calculated as a lump sum, the contract shall specify the maximum print run of the work.

The rights assigned or licensed under the author's contract may not be reassigned or relicensed to third parties, either in their entirety or in part, unless the contract expressly so provides.

An author reserves for himself all the rights of exploitation of the work that are not assigned or licensed under the author's contract.

The author's contract may not relate to exploitation rights arising in connection with works that the author may create in the future.

Any clause in an author's contract that imposes limits on the author regarding the future creation of works on a particular subject or in a particular field shall be deemed invalid.

Those clauses of an author's contract that are contrary to the provisions of this Law shall be deemed invalid.

Article 27. Form of the author's contract

The author's contract shall be in written form. If it relates to the use of a work in the periodical press, it may be concluded by word of mouth.

Contract for the sale of copies of computer programs and contract affording extensive access to computer programs is considered as contract concluded in written form if its conditions (conditions of using of computer program) are stated on the copies of the computer programs accordingly.

Article 28. Commission contracts

Under a commission contract, the author undertakes to create the work under the conditions specified in the contract and to hand it over to the commissioning party. The commissioning party shall be bound to pay the author an advance on the remuneration agreed by contract. The amount of the advance and the procedure and time limits for the payment thereof shall be agreed upon by the parties and specified in the contract.

Where the author has not delivered the commissioned work in the manner specified in the commission contract, he shall be bound to indemnify the commissioning party for the actual prejudice caused thereby.

Article 29. Sanctions in connection with author's contracts

The party who fails to discharge his obligations under the author's contract or does not discharge them in the agreed manner shall be bound to indemnify the other party for the prejudice sustained by the latter, including lost earnings.

TITLE III. RELATED RIGHTS

Article 30. Scope of related rights

The provisions of this Law on protection of rights of performers are used to:

- 1) the performers are nationals of the Republic of Tajikistan;
- 2) the performers are not nationals of the Republic of Tajikistan, but their performances:
 - a) first occurred on the territory of the Republic of Tajikistan;
 - b) the performances has been recorded on a phonogram protected under the provisions of this Article Law;
 - c) the performances has not been recorded on a phonogram but is included in a program broadcast or transmitted by cable that is protected under this Law;

The provisions of this Law on protection of rights of phonogram producers are used to:

- 1) the phonograms producer of which is a national of the Republic of Tajikistan or a legal entity with headquarters located on the territory of the Republic of Tajikistan;
- 2) the phonograms producer of which is not a national of the Republic of Tajikistan or a legal entity with headquarters located on the territory of the Republic of Tajikistan, but the first publication of the phonograms occurred on the territory of the Republic of Tajikistan or the phonograms published on the territory of the Republic of Tajikistan within 30 days if the date of first publication in other country.

The provisions of this Law on protection of rights of the broadcasting or cable

distribution organizations use to broadcasting by a broadcasting or cable distribution organization if the said organization has its headquarters on the territory of the Republic of Tajikistan and broadcasts with the aid of transmitters located on the territory of the Republic of Tajikistan.

The provisions of this Law also use to performers, phonograms and broadcasting by a broadcasting or cable distribution organization that is granted protection under international treaties to which the Republic of Tajikistan is party.

Article 31. Objects of related rights

Related rights extend to plays, performances, and phonograms, broadcastings by a broadcasting or cable distribution organization regardless of the purpose, the content, the merit and the manner of expression thereof.

Article 32. Subjects of related rights

The subjects of related rights are performers, producers of phonograms and broadcasting or cable distribution organizations.

The producer of a phonogram or the broadcasting or cable distribution organization shall exercise their rights as specified in this Title within the limits of the rights that the performer and the author of the work recorded on the phonogram or broadcast or transmitted by cable have granted them by contract.

Authorization to exploit a performance that has been obtained from the producer or director of a show shall not release a person from the obligation to obtain authorization from the other performers who have taken part in the performance and also from the author of the work performed.

The performer shall exercise the rights specified in this Title without infringing the rights of the author of the work performed.

Article 33. Related rights notice

The origin and exercise of related rights shall not be subject to compliance with any formality. The producer of a phonogram and the performer may, in order to publicize their rights, make use of a reserved related rights notice which should be placed on every copy or on every sleeve or inlay card of the phonogram and should consist of the following three elements:

- 1) a circled capital letter P: (P);
- 2) the name of the owner of the exclusive rights;
- 3) the year of first publication of the phonogram.

Article 34. Rights of the performer

Except as provided in this Law, the performer shall be granted the following exclusive rights in relation to his performance:

- 1) the right to be named;
- 2) the right to the protection of the performance against any distortion or other derogatory act liable to prejudice his honor or dignity;
- 3) the right to exploit the performance in any form, including the right to be paid

remuneration for every such form of use.

The exclusive right to exploit the performance means the right to perform or authorize the following acts:

- 1) broadcasting or cable communication of the performance to the public insofar as the performance used for that purpose has not been broadcast previously and if the broadcast or cable communication to the public is not effected on the basis of a recording;
- 2) recording of a hitherto unrecorded performance;
- 3) reproduction of the recording of a performance;
- 4) broadcasting or cable transmission of the recording of a performance insofar as the said recording was originally made for noncommercial purposes;
- 5) rental of a phonogram published for commercial purposes on which a performance has been recorded with the participation of the performer. This right shall be transferred to the phonogram producer on the conclusion of a contract for the recording of the performance on a phonogram; the performer shall nevertheless retain the right to remuneration for the rental of copies of the phonogram.

The exclusive right of the performer under paragraph 3, part 2 of this Article shall not apply if:

- 1) the initial recording of the performance was made with the consent of the performer;
- 2) the reproduction of the performance is made for the same purposes as the recording of the performance to which the performer consented;
- 3) the reproduction of the performance is made for the same purposes as the recording that was made pursuant to the provisions of Article 41 of this Law.

The authorizations referred to in this Article shall be granted by the performer, or, in the case of a group performance, by the head of the group, in a written contract concluded with the user.

The authorizations referred to in paragraph 1 to 3 of part 2 of this Article shall not be necessary for the rebroadcasting of a performance, the recording for broadcasting purposes and the reproduction of that recording by broadcasting or cable distribution organizations if they are expressly provided for in the contract concluded by the performer with the broadcasting or cable distribution organization. The amount of the remuneration payable to the performer for such use shall likewise be specified in the contract.

The conclusion of the contract for the making of an audiovisual work by the performer and the maker shall constitute licensing by the performer of the rights referred to in paragraph 1 to 4 of part 2 of this Article.

The licensing of the said rights by the performer shall be confined to the use of the audiovisual work and, unless otherwise provided in the contract, shall not extend to the rights in any separate use of the sound or the pictures embodied in the audiovisual work.

The performer may assign or license the exclusive rights under this Article to third parties by contract.

Article 35. Rights of the phonogram producer

Except as provided in this Law, the phonogram producer shall enjoy the exclusive right

to exploit his phonogram in any form, including the right to remuneration for every such form of use.

The exclusive right to exploit the phonogram shall mean the right to perform or authorize the following acts:

- 1) reproduction of the phonogram;
- 2) adaptation or any other transformation of the phonogram;
- 3) distribution of copies of the phonogram, for instance by sale or rental;
- 4) importation of copies of the phonogram for the purposes of distribution, including copies made with the authorization of the producer of the phonogram in question.

Where copies of a lawfully published phonogram have been placed on the market by sale, their subsequent distribution may take place without the consent of the producer of the phonogram and without payment of remuneration. The right to distribute copies of the phonogram by rental shall belong to the phonogram producer independently of the ownership of the said copies.

The phonogram producer may assign or license the exclusive rights under paragraph 2 of this Article to third parties by contract.

Article 36. Rights of the broadcasting organization

Except as provided in this Law, the broadcasting organization shall enjoy the exclusive right in relation to its program, to exploit it in any form and to grant authorization to use it, including the right to remuneration for such grant.

The exclusive right to authorize use of its program shall mean the right of the broadcasting organization to authorize:

- 1) the simultaneous broadcasting of the program by another broadcasting organization;
- 2) the communication of the program to the public by cable;
- 3) the recording of the program;
- 4) the reproduction of the recording of the program;
- 5) the communication of the program to the public in places where a charge is made for admission.

The exclusive right of the broadcasting organization under paragraph 4, part 2 of this Article shall not extend to the case in which:

- the program has been recorded with the consent of the broadcasting organization;
- the program is reproduced for the same purposes as those for which it was recorded under the provisions of Article 41 of this Law.

Article 37. Rights of the cable distribution organization

Except as provided in this Law, the cable distribution organization shall enjoy the exclusive right, in relation to its program, to exploit it in any form and to grant authorization to use it, including the right to remuneration for such grant.

The exclusive right to authorize the use of the program shall mean the right of the cable distribution organization to authorize:

- 1) the simultaneous cable communication of its program to the public by another cable distribution organization;
- 2) the broadcasting of the program;
- 3) the recording of the program;

- 4) the reproduction of the recording of the program;
 - 5) the communication of the program to the public in places where a charge is made for admission.
3. The exclusive right of the cable distribution organization under paragraph 4, part 2 of this Article shall not extend to the case in which:
- the program has been recorded with the consent of the cable distribution organization;
 - the program is reproduced for the same purposes as those for which it was recorded under the provisions of Article 41 of this Law.

Article 38. Using of the works and the objects of related rights by other natural and legal persons

Using of the Works and the Objects of Related Rights by other natural and legal persons is allowed by consent of entity possessing exclusive rights in the work and a royalty payment, with the exception of cases stipulated in Articles 19 to 21, 24, and 39 to 41 of this Law.

Article 39. Reproduction of the works and phonograms for personal purposes

Notwithstanding the provisions of Article 34 and Article 35 of this Law, the reproduction of an audiovisual work or sound recording of a work for exclusively personal purposes shall be permissible without the consent of the author of the work or other entity possessing copyright, performer and phonogram producer, but subject to payment of remuneration to them.

The remuneration for the reproduction referred to in paragraph 1 of this Article shall be paid by the manufacturers or importers of the equipment (sound recording equipment, videocassette recorders, etc.) and of the recording material (tape and cassettes for sound or video recording, optical discs, compact discs, etc.) used for the reproduction.

The collection and distribution of the remuneration shall be effected by one of the organizations for collective administration of the economic rights of authors, phonogram producers and performers under an agreement concluded with the said organization (Article 43 of this Law). Except where otherwise provided in the agreement, the remuneration shall be distributed as follows: 40% to the authors, 30% to the performers and 30% to the phonogram producers.

The amount of the remuneration and the manner of its payment shall be determined by agreement between the aforementioned manufacturers and importers on the one hand and the organizations for collective administration of the economic rights of authors, phonogram producers and performers on the other hand, and, if the parties fail to agree, by an authorised agency.

3. No remuneration shall be paid for the recording equipment and material referred to in this Article that are exported or constitute professional equipment and material not intended to be used for home recording.

Article 40. Use of a published phonogram for commercial purposes without consent from the phonogram producer and the performer

Notwithstanding the provisions of Article 37 and Article 38 of this Law, the following shall be authorized without consent from the producer of a phonogram published for

commercial purposes and from the performer whose performance is recorded on the phonogram, but against payment of remuneration:

- 1) public performance of the phonogram;
- 2) broadcasting of the phonogram;
- 3) communication of the phonogram to the public by cable.

The collection, distribution and payment of the remuneration provided for in this Article shall be effected by one of the organizations for the collective administration of the rights of producers of phonograms and performers

(Article 43 of this Law) under an agreement concluded between those organizations.

Except where otherwise provided in the said agreement, the remuneration shall be distributed equally between the phonogram producer and the performer.

The amount of the remuneration and the manner of its payment shall be determined by agreement between the user of the phonogram or the unions (associations) of users on the one hand and the organizations that manage the rights of phonogram producers on the other, or, where the parties fail to agree, by an authorized agency. The amount of remuneration shall be set for each form of use of the phonogram.

The users of phonograms shall be bound to submit programs to the organization referred to in this Article containing detailed information on the number of uses of the phonogram, together with such other information and material as is necessary for the collection and distribution of the remuneration.

Article 41. Limits of the rights of the performer, the phonogram producer and the broadcasting or cable distribution organization

Notwithstanding the provisions of Article 34 to Article 37 and 40 of this Law, it shall be permissible, without consent from the performer, the phonogram producer and the broadcasting or cable distribution organization, and without payment of remuneration, to make use of the performance or the broadcast or cabled program or the recording thereof, and to reproduce phonograms:

- 1) for the inclusion in a report on current events of short extracts from the performance, the phonogram or the broadcast or cabled program;
- 2) for the sole purposes of teaching or scientific research;
- 3) as a means of quoting, in the form of short extracts, from the performance, the phonogram or the broadcast or cabled program, on condition that the quotation is for information purposes and on the understanding that a broadcasting or cable distribution organization may only, for the purposes of a broadcast or cabled program make use of copies of a phonogram published for commercial purposes if the provisions of Article 40 of this Law are respected;
- 4) in the other cases provided for in Article 19 to 21 of this Law for the limitation of the economic rights of the authors of literary, scientific and artistic works.

Notwithstanding the provisions of Article 34 to Article 37 and 40 of this Law, it shall be permissible, without consent from the performer, the phonogram producer and the broadcasting or cable distribution organization to make use of the broadcast or cabled program or a recording thereof, and also to reproduce the phonogram for personal purposes. Reproduction of the phonogram shall be permissible against payment of remuneration under Article 39 of this Law.

The provisions of Article 34 to 37 of this Law concerning the authorization of the performer, the phonogram producer and the broadcasting organization shall not be applicable to the making of an ephemeral recording of a performance or program, to the reproduction of that recording or to the reproduction of a phonogram published for commercial purposes if the ephemeral recording or the reproduction is made by a broadcasting organization using its own equipment and facilities and for the purposes of its own broadcasts, on condition that:

- 1) the broadcasting organization has obtained prior authorization to broadcast the performance or the program of which an ephemeral recording is made or performed;
- 2) the ephemeral recording is destroyed within the period laid down for ephemeral recordings of literary, scientific and artistic works made by broadcasting organizations under the provisions of paragraph 4, Article 21 of this Law; however, a single copy may be preserved in official archives if it is of purely documentary character.

The application of the limitations provided for in this Article shall not prejudice either the normal exploitation of the phonogram, the performance or the program broadcast or transmitted by cable, or recordings thereof, or the normal exploitation of the literary, scientific or artistic works incorporated therein, and it shall likewise not prejudice either the legitimate interests of the performer, the phonogram producer or the broadcasting or cable distribution organization or those of the authors of the works in question.

Article 42. Term of related rights

The rights of the performer under this Law shall have effect for 50 years following the first performance.

The performer's rights to be named and to have the performance protected against any distortion or other derogatory act, laid down in Article 34 of this Law, shall be protected without limitation in time, but are not inheritable.

The rights of the phonogram producer under this Law shall have effect for 50 years following the first publication of the phonogram, or for 50 years following the first recording thereof if it has not been published in the course of that period.

The rights of the broadcasting organization under this Law shall have effect for 50 years following the date of the first broadcast effected by the organization.

The rights of a cable distribution organization under this Law shall be protected for 50 years following the date of the first cable transmission made by the organization.

Any period under this Law shall be calculated as from January 1 of the year following that in which the legal act occurred that marks the starting point of the period.

The right to authorize the use of the performance, phonogram or broadcast or cabled program and the right to remuneration shall pass to the heirs (in the case of a legal entity, to the successors in title) of the performer, phonogram producer or broadcasting or cable distribution organization for the duration of the non-elapsed portion of the terms specified in this Article.

TITLE IV. COLLECTIVE ADMINISTRATION OF ECONOMIC RIGHTS

Article 43. Objectives of the collective administration of economic rights

Organizations for the collective administration of the economic rights of authors,

performers, phonogram producers and other owners of copyright or related rights (hereinafter - organizations for the collective administration) may be created for the exercise of the economic rights of those persons or entities in cases where the individual exercise thereof is hampered by difficulties of a practical nature.

Such organizations shall be created as nongovernmental non-commercial organizations; they shall operate within the limits of the mandate entrusted to the owners of copyright or of related rights.

It shall be permissible to create either separate organizations for particular rights and particular categories of owners, or organizations that administer various rights on behalf of various categories of owners, or again one organization managing both authors' rights and related rights.

Article 44. Mandate of organizations for the collective administration

The mandate for the collective administration of economic rights shall be entrusted either direct, by the owners of copyright or related rights in written contracts, or under appropriate contracts with foreign organizations that administer equivalent rights. Such contracts shall not constitute authors' contracts, and the provisions of Article 25 to Article 29 of this Law shall not be applicable to them.

Any author or his heir or any other owner of copyright or related rights protected under Title III of this Law may, by contract, entrust the exercise of his economic rights to a collective administration organization, and the latter shall agree to exercise those rights on a collective basis if it in question forms part of its statutory activity.

Collective administration organizations shall not be entitled to engage in the exploitation of the works and subject matter of related rights for which they have received a collective administration mandate.

The organization for the collective administration of economic rights shall grant users licenses for the use of the relevant works and subject matter of related rights by appropriate means. The conditions on which such licenses are granted shall be identical for all users in a given category. The organization shall not be entitled to refuse a license to a user without valid reason.

The licenses in question shall authorize the use, by the means that they specify, of all the works and subject matter of related rights, and shall be granted in the name of all the owners of copyright or related rights, including those who have not mandated the organization under this Article.

The organization that grants the license shall settle problems arising from claims made by owners of copyright or related rights on users in connection with the use, under the license, of their works or subject matter of related rights.

If an organization for the administration of economic rights has remuneration in its possession that has not been claimed for three years following the date of the collection thereof, it may retain it and either include it in the sums that it distributes or assign it to other purposes of interest to the owners of copyright or related rights that it represents.

Article 45. Functions of organizations for the collective administration

An organization for the collective administration of economic rights shall, on behalf of the owners of copyright or related rights that it represents and on the basis of the

mandates entrusted to it, perform the following functions:

- 1) negotiation, with users, of remuneration amounts and other conditions to which the grant of licenses is subject;
- 2) licensing of users for the exploitation of rights the administration of which forms part of its activities;
- 3) negotiation, with users, of remuneration amounts where it is responsible for collecting such remuneration without granting a license (part 3, Article 39, part 2 and 3, Article 40 of this Law);
- 4) collection of the remuneration provided for in licenses or that referred to in subparagraph (3) of this Article;
- 5) allocation and payment of the remuneration collected under subparagraph (4) of this Article to the owners of copyright and neighboring rights that it represents;
- 6) performance of any legal act essential to the defense of the rights the administration of which forms part of its activities;
- 7) performance of any other activity under mandates received from the owners of copyright or neighboring rights.

Article 46. Obligations of organizations for the collective administration

An organization for the collective administration of economic rights shall act in the interest of the owners of copyright or related rights that it represents. To that end it shall discharge the following obligations:

- 1) at the same time as the remuneration is paid, it shall report to the owners of copyright or neighboring rights on the use of their rights;
- 2) it shall use the remuneration collected under paragraph 4, Article 45 of this Law exclusively for allocation and payment to the owners of copyright or neighboring rights; however the organization has the right to deduct from the amount of the remuneration collected a sum intended to cover expenditure actually incurred by it in the collection, allocation and payment of the remuneration, and also a sum payable to a special fund established by it for the benefit of the owners of copyright and neighboring rights that it represents, and with their agreement;
- 3) it shall allocate the remuneration collected, after deduction of the sums referred to in paragraph 2 of this Article, and ensure the regular payment thereof.

Owners of copyright or related rights who have not mandated the organization to collect the remuneration provided for in paragraph 4, Article 45 of this Law shall be entitled to demand that the organization pay them the remuneration accruing to them according to the allocation made, or alternatively that it exclude their works or subject matter of related rights from the licenses that it grants users.

TITLE V. SANCTIONS FOR THE PROTECTION OF COPYRIGHT AND Related RIGHTS

Article 47. Violations of copyright and related rights. Counterfeit copies of works and phonograms

Copies of a work or phonogram that are manufactured or distributed in violation of copyright or related rights shall be deemed counterfeit copies.

Copies of works or phonograms protected in the Republic of Tajikistan under this Law that are imported into the Republic of Tajikistan from a State in which the said works or phonograms have never been protected or have ceased to be protected shall also constitute counterfeit copies.

Any natural persons or legal entities that do not meet the requirements of this Law bear the responsibility according to the legislation.

Article 48. Sanctions for the protection of copyright and related rights

The owners of exclusive rights, whether copyright or related rights, may demand of the infringer of his rights:

- 1) recognition of the said rights;
- 2) restoration of the situation obtaining prior to the infringement of the said rights and the cessation of the acts that infringe or are liable to infringe them;
- 3) payment of damages, including loss of earnings;
- 4) the surrender, in place of the payment of damages, of revenue derived by the infringer from the infringement;
- 5) the adoption of such other measures provided for in legislative texts as are recognized for the defense of his rights.

The choice between the measures referred to in paragraph 3 - 4 of this Article shall be made by the owner of the copyright or related rights.

Counterfeit copies of the work or phonogram, may be handed over on request to the owner of the copyright or related rights.

Counterfeit copies of the work or phonogram shall be destroyed if the owner of the copyright or related rights has not demanded that they be handed over to him.

November 13, 1998