

# COPYRIGHT AND NEIGHBOURING RIGHTS ACT

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*Amended SG Nos. 63/1994: 10/1998. 28/2000*

## Part One COPYRIGHT

### Chapter One GENERAL PROVISIONS

#### Subject of the Act

**Art. 1.** This Act regulates the relationships which are related to the creation and distribution of literary, artistic and scientific works. Inception of Copyright

**Art. 2.** The copyright over literary, artistic and scientific works shall arise for the author with the creation of the literary, artistic or scientific work

### Chapter Two OBJECTS OF COPYRIGHT

#### Protected Objects

**Art. 3.** (1) Any literary, artistic and scientific work resulting from a creative endeavor and expressed by any mode and in any objective form shall be the object of copyright such as:

1. literary works, including works of scientific and technical literature, publicism and computer software;

2. musical works;

3. performing arts works; dramatic or dramatico-musical works, entertainments in dumb show, choreography, etc.;

4. films and other audio-visual material;

5. works of fine art, including works of applied art, design and crafts;

6. architectural works;

7. photographic works to which are assimilated works expressed by a process analogous to photography;

8. blueprints, maps, sketches, plans and others related to architecture, urban planning, geography, topography, museum research and any other area of science and technology;

9. graphic design of publications;

(2) The following shall also be considered objects of copyright;

1. translations and adaptations of existing works and folklore;

2. arrangements of musical works and folklore;

3. periodicals, encyclopedias, collected works, anthologies, bibliographies, data bases and other similar objects that include two or more works or products.

(3) Parts of works under [paragraphs 1](#) and [2](#), preliminary drawings, diagrams, etc., may also be objects of copyright.

### Exceptions

**Art. 4.** The following shall not be considered objects of copyright:

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

## Chapter Three COPYRIGHT PROPRIETORS

### Authors and Other Copyright Proprietors

**Art. 5.** An author is a natural person whose creative endeavors have resulted in the creation of a literary, artistic or scientific work. Other natural or legal persons may be copyright proprietors only in the cases provided for under this Act.

### Presumption of Authorship

**Art. 6.** Until proved otherwise, the person whose name or other identifying mark is inscribed in the customary manner on the literary, artistic or scientific work, shall be considered its author.

### Authorship of Pseudonymous or Anonymous Works

**Art. 7.** (1) Literary, artistic or scientific works 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 for the first time 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) Copyright over works created by two or more persons shall belong to them jointly irrespective of whether the said works constitute one indivisible entity or consist of separate parts each having individual significance.

(2) The consent of all authors shall be required for every instance of use or revision of the work. In the event that the authors fail to reach agreement among themselves the issue shall be resolved by the court.

(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, none of the joint authors is entitled without reasonable grounds to object to that work's use in the said manner.

(4) The compensation due to the authors for the use of their work, shall be distributed among them in shares by mutual agreement. In the event that no agreement exists, it shall be considered that all the joint authors' shares are equal. In case of disputes, individual shares shall be determined in court pursuant to the contribution of each of the authors.

(5) Whenever a work created by joint authors consists of components each having individual significance, each of the joint authors may permit the individual use of his own component unless the authors have agreed otherwise and if this does not hinder the use of the work as a whole.

### **Copyright over Translations and Adaptations**

**Art. 9.** Copyright over translations and adaptations shall belong to the person that has made them and shall not prejudice the rights of the original author of the work. This shall not deprive other persons from the right to make their own translations or adaptations of the same work.

### **Copyright over Periodicals and Encyclopedias (Amended SG. No. 28/2000)**

**Art. 10.** Copyright over periodicals and encyclopedias shall belong to the natural or legal person responsible for the creation and publishing of the publication. Copyright over individual components included in such publications having the nature of literary, artistic or scientific works, shall belong to their individual authors.

### **Copyright over Collections, Anthologies, Bibliographies and Data Bases (Amended SG. No. 28/2000)**

**Art. 11.** (*Amended SG. No. 28/2000*) (1) Copyright over collections, anthologies, bibliographies, data bases and other similar materials shall belong to the person who has collected or arranged the works and/or material contained therein, unless agreed upon otherwise in a contract. Copyright over the individual parts of which such a work may consist and which themselves constitute literary, artistic or scientific works, shall belong to their individual authors.

(2) The permission of the authors shall be required, unless provided otherwise by a law, for the inclusion of works or parts thereof into collections.

### **Copyright over Works of Fine Art and Architecture**

**Art. 12.** Copyright over works of fine art and architecture shall belong to the person who has created those works even in such cases when the said works are the property of another person.

### **Copyright over Portraits**

**Art. 13.** Copyright over works of fine art or photography constituting a portrait of a person different from the author shall belong to the author. The author may negotiate with the person who appears on the portrait the terms of the use of such works.

### **Copyright over Computer Software and Data Bases Developed under an Employment Contract**

**Art. 14.** Unless agreed upon otherwise, copyright over computer software and data bases developed under an employment contract shall belong to the employer.

## **Chapter Four CONTENT OF COPYRIGHT**

### *Section I Non-Economic Rights*

## Types of Non-Economic Copyright

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

1. decide whether the work created by him may be made available to the public and to determine the time, place and manner in which this may be done, with the exceptions of the objects under [Article 3, paragraph 1, items 4, 6 and 8](#), for which such rights shall be arranged by contract;
2. claim the copyright over such works;
3. decide whether such works shall be made available to the public anonymously or pseudonymously;
4. require that his name, pseudonym or other identifying mark be identified in a suitable manner whenever his work is used;
5. require that the entirety of his work is preserved and oppose any changes therein as well as any other actions that may violate his legitimate interests or personal dignity;
6. make alterations in the work inasmuch as this does not prejudice rights acquired by other persons;
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 exercising non-economic or economic rights under this Act;
8. halt the use of the work due to changes in his beliefs, with the exception of already implemented architectural works, providing 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 oppose the wish of the owner of the already completed structure to destroy the latter, reconstruct it, add a superstructure or an annex thereto, as long as such actions are undertaken in conformity with existing regulations.

## Non-Transferability of Non-Economic Rights

**Art. 16.** Non-economic rights under [items 2](#) and [4 of paragraph 1](#) of the preceding article are non-transferable. Transfer of other non-economic rights may only be explicit and in writing.

## Exercising Non-Economic Rights after the Death of the Author

**Art. 17.** After the death of the author and until the expiration of the term of copyright protection, the non-economic rights, with the exception of those under [Article 15, paragraph 1, items 6 and 8](#), shall be exercised by the author's heirs.

## Section II Economic Rights

### Types of Economic Copyright

**Art. 18.** (1) The author shall be entitled to the exclusive right to use the work created by him and to permit its use by other persons except in the cases when this Act provides otherwise.

(2) Actions such as the ones listed below shall be considered as uses 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. wireless transmission of the work;
5. transmission of the work by cable or other technical means;
6. public display of a work of art or a work created by photographic or similar means;
7. translation of the work into another language;

8. (*Amended SG. No. 28/2000*) revision of the work, Revision shall be the adapting of the work and the introduction of any modifications thereto as well as the use of the work to create a new derivative work;

9. implementation of an architectural design through the building or manufacture of the object described in it;

10. (*New SG. No. 28/2000*) transmission by wireless, cable or other technical means of access to the work or part thereof for an unlimited number of persons in a manner which permits that access to occur from a place and at a time individually chosen by each one of them.

(3) Use under [paragraph 2, items 3 through 8](#) shall be considered as having occurred whenever the actions described above have been performed in such a manner as would enable an unlimited number of people to perceive the work.

(4) The first sale or other transaction, performed by the copyright proprietor or with his consent, with which the ownership of the original of the work or a copy thereof is transferred, shall terminate the right to distribute that work or copy, with the exception of the right to permit their further leasing. This provision shall not prejudice the rights under [Article 20](#).

### **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 successive use of the same type.

### **Rights at Subsequent Sales**

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

(2) (*Amended SG. No. 28/2000*) The intermediary or auction organizer shall inform the author two months prior to the sale of the work and shall pay him the compensation due either directly or through an organization conducting collective copyright management, providing him with information about the price at which the work has been sold. The author and the collective copyright management organization shall not disclose this information, if the new owner has wished so.

### **Permitted Cable Transmissions**

**Art. 21.** (*Amended SG. No. 28/2000*) The permission for wireless broadcasting of a work shall include a permission to the same organization to broadcast the work by cable or other technical means without paying additional compensation, provided that the transmission is conducted simultaneously with the broadcasting, in an unchanged form and does not extend beyond the territory for which the right to broadcast has been granted.

### **Permitted Transmission by Telecommunications Satellite**

**Art. 22.** (*Amended SG. No. 28/2000*) (1) The permission to broadcast a work by wireless means shall include the right of the broadcasting organization to transmit the work by signal to a satellite and back to Earth in a manner permitting its reception by the public either directly and individually, or through an intermediary organization different from the transmitting authority. This shall be permissible provided that it is received through an intermediary organization only if the author has agreed to grant to the receiving organization the right to broadcast the work by wireless means, to transmit it by cable or another technical means, or to present it to the public in another manner. In such instances no compensation shall be required from the organization which transmits the signal to the satellite.

(2) (*Amended SG. No. 28/2000*) When the signal under [paragraph 1](#) is encoded, the permission shall be considered granted only if the decoding device has been provided by the broadcasting organization or with its consent.

## **Chapter Five**

### **FREE USE OF WORKS**

#### **Permissible Free Use**

**Art. 23.** No permission from the author and no compensation shall be due in the case of:

1. the use of quotations from works by other persons provided that due indication is given of the source and name of the author if it is disclosed. Quotations shall be made in the customary manner and their volume shall be justified by their purpose:

2. (*Amended SG. No. 28/2000*) the use of parts of published works or of a moderate number of small works, with the exception of computer programs and data bases, in other works in such a volume as is necessary for the purposes of an analysis, commentary or another kind of scientific research. Such use shall be permissible only for scientific and educational purposes, shall include reference to the source and name of the author, and only when it does not prejudice the normal use of the work and does not result in unjustified damage to the legitimate interests of the authors;

3. the use as current news in the press and other media of addresses, reports, sermons and others or parts thereof delivered at public gatherings, as well as speeches delivered in the course of legal proceedings;

4. reproduction by photographic, cinematographic or similar manner, as well as audio or video recordings of works related to a current event for the use of such works by the media in a limited volume for the purpose of providing news coverage;

5. reproduction of works that are on permanent display on streets, squares and other public places without their being subjected to mechanical contact copying, as well as their broadcasting by wireless means, by cable or other technical means, if this is done for the purpose of providing information or for other non-commercial purposes;

6. the public performance of published works in educational institutions if this does not involve the collection of revenues from such performance and if the participants in the preparatory work and the actual public performance do not receive compensation;

7. reproduction by copier or other similar means of parts of published works or of small works, as well as the recording of parts of films and other audio-visual works on audio or video media by educational institutions and their use for educational purposes;

8. reproduction of works already made available to the public through Braille script or similar method if this is done for non-profit purposes;

9. reproduction in small quantities of already published works, with the exception of computer software and data bases, by using copier, photographic or other means by public libraries, document centers, research institutions, etc., if this is done for scientific purposes or to preserve the works and if the copies are not circulated outside the framework of the organization which has made them;

10. use of details, fragments and individual components of buildings and architectural designs by providing reference to the name of the author if such has been disclosed. Such uses shall conform to the customary practice and their volume shall not exceed that justified by the purpose.

### **Permitted Recording for Single Transmission**

**Art. 24.** Radio and television organizations granted by the author the right to broadcast his work by wireless means shall be entitled to make an audio or video recording for the purposes of the single broadcast without seeking the consent of the author and without providing separate compensation to him for such recordings. A subsequent transmission of such a recording shall be permitted only with the consent of the author and for compensation as provided by [Article 40](#).

### **Free Copying for Personal Use**

**Art. 25.** The copying of already published works shall be made without the consent of the author and without compensation only if it is done for personal use. This shall not be valid for computer software and architectural designs.

### **Compensation for Recordings for Personal Use<sup>1</sup>**

**Art. 26.** (1) (*Amended SG. No. 28/2000*) The authors of works recorded on sound or video media, as well as the performers whose performances have been recorded, the phonogram producers and the producers of the initial recording of recorded films shall be entitled to compensation whenever their recordings are recorded for personal use. Such compensation shall also be due to the authors and publishers of all types of printed works when these works have been reproduced reprographically for personal use.

(2) (*Amended SG. No. 28/2000*) The compensation under [paragraph 1](#), sentence one, shall be due from the persons who manufacture or import blank audio or video media and recording machines, while the compensation under [paragraph 1](#), sentence two, shall be due from the persons who manufacture or import machines designed for reprographic reproduction. The compensation shall amount to five per cent of the manufacturer's price of the media produced in the country, and to two per cent of the manufacturer's price of the machines produced on the country, or of the customs dutiable value of imported media and machines.

(3) (*Amended SG. No. 28/2000*) The compensation payments shall be made to an organization, established according to the procedure stipulated in [Article 40](#) by interested organizations representing individual categories of right-holders under this Act, which shall then distribute the compensations among these organizations. Prior to any such distribution, twenty per cent of all sums collected shall be set aside and credited to the account of the "Culture" National Fund.

(4) (*Amended SG. No. 28/2000*) The distribution of the sums thus collected among the various categories of right-holders shall be made as follows:

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<sup>1</sup> Amendments to Article 26 specified in § 8 of Act on the Amendments and Supplements to the Copyright and Neighbouring Rights Act promulgated in SG No. 28/2000 shall become effective as of January 1, 2001



1. of compensations under [paragraph 1](#), sentence 1:

- a). one third for the authors;
- b). one third for the performing artists;
- c). one third for the producers;

2. of compensations under [paragraph 1](#), sentence 2:

- a) fifty per cent for the authors;
- b) fifty per cent for the publishers.

(5) (*New SG. No. 28/2000*) The sums collected under [paragraph 1](#) shall be refunded by the collecting organization:

1. whenever the levied blank audio or video media:

- a) have subsequently become an object of an export transaction, without any recordings on them;
- b) have subsequently been fixed with recordings made within the country by a person who has legitimately acquired the right to make such recordings and has settled all copyright and neighbouring rights matters related to the recording;
- c) have been purchased by radio or TV organizations holding legal licenses and have been fixed with recordings and kept by these organizations for the needs of their own broadcasts;
- d) have been purchased by film-makers or creators of other types of audio-visual works and have been fixed with recordings and used by them for their own production or advertising needs;

2. whenever the levied machines designed for recording or reprographic reproduction have subsequently become the object of an export transaction, and if this transaction has been conducted prior to the machines being used in the country.

(6) (*New SG. No. 28/2000*) Machines designed for recording under this Article shall be all the machines designed for the recording of works on sound or video media from phonograms or video-recordings, or from radio or TV broadcasts, while machines designed for reprographic reproduction shall be all the machines designed for the copying of printed materials by photocopying or any other manner producing a similar result.

(7) (*New SG. No. 28/2000*) The Council of Ministers shall issue a regulation on the implementation of this Article.

## Chapter Six DURATION OF COPYRIGHT

### General Rule

**Art. 27.** (1) (*Amended SG. No. 28/2000*) Copyright shall be protected for the life of the author and seventy years after his death.

(2) For works having two or more authors the term specified in [paragraph 1](#) shall commence from the death of the last surviving author.

### Pseudonymous or Anonymous Works



**Art. 28.** (*Amended SG. No. 28/2000*) Copyright over anonymous or pseudonymous works shall be protected for seventy years after the works have been first made available to the public. In the event that within the said term the author's identity is disclosed, or if the pseudonym throws no doubt upon the author's personality, the provisions of the preceding article shall apply.

### Computer Programs and Data Bases

**Art. 28a.** (*New SG. No. 28/2000*) The copyright over a computer program or a data base under [Article 14](#) shall be protected for seventy years after making the work available to the public. If the author's identity has been established within this term, the provisions of [Article 27](#) shall apply.

### Films

**Art. 29.** (*Amended SG. No. 28/2000*) The copyright over a film or some other audio-visual work shall be protected for seventy years after the death of the last survivor among the director, the author of the screenplay, the director of photography, the author of the dialogue, or the composer, if the music had been specially made for the film.

### Collected Works

**Art. 30.** (1) Copyrights over encyclopaedias, periodicals and other works under [Article 3, paragraph 2, item 3](#) shall be protected for seventy years after their publication.

(2) (*New SG. No. 28/2000*) With respect to works which are published in volumes, parts, issues, or episodes, the term under [paragraph 1](#) shall be calculated for each one individually.

### Commencement of Terms

**Art. 31.** The terms mentioned in the preceding articles of this chapter shall commence as of January 1 of the year following the year of the author's death, or, respectively, the year when the work under [Articles 27 through 30](#) was made, or made available to the public or published.

### Inheriting Copyrights

**Art. 32.** (1) Upon the death of the author copyrights shall be passed on to his heirs by last will or by operation of law under the Inheritance Act.

(2) Copyrights may be inherited until the term of their protection expires.

### Exercising Rights in the Absence of Heirs

**Art. 33.** In the event that an author does not have heirs, or any such heirs die prior to the expiration of the term of protection, copyrights shall be passed on to the state which shall exercise such rights until they expire through the Ministry of culture. In the event that the deceased author had been member of an organization conducting collective management of rights under this Act, that organization shall at its own expense exercise such rights until they expire.

### Use of Works after Copyrights Have Expired

**Art. 34.** After the term of copyright protection has expired literary, artistic and scientific works may be used freely inasmuch as that does not violate rights under [Article 15, items 4](#) and [5](#), which are of unlimited duration. The bodies under [Article 33](#) shall monitor the observance of such rights and may, as an exception, permit changes to be made in such works.

### Protection of Unpublished Works

**Art. 34a.** (New SG. No. 28/2000) Every person who makes a work available to the public after the term of copyright protection has expired shall enjoy the rights under [Article 18](#), if the work had not been published by then. This right shall be protected for twenty five years as of January 1 of the year, following the year in which the work has been 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 for by this Act.

#### **Contracts on Use**

**Art. 36.** (1) By concluding a contract on the use of his work, the author shall grant the user exclusive or non-exclusive rights to use the said work on specific terms and for compensation.

(2) Whenever an author grants a user exclusive rights to use a work he himself may not use it in the manner, for the term and in the territory agreed upon in the contract, nor shall he grant such rights to third parties.

(3) Whenever an author grants a user non-exclusive rights to use a work, he may continue using it himself, as well as grant non-exclusive rights for its use to third parties.

(4) The granting of exclusive rights under [paragraph 2](#) shall be explicit and in writing. Whenever no such provision exists, it shall be considered that non-exclusive rights have been granted.

(5) If no term has been specified in the contract, it shall be assumed that the right to use a work has been granted for a period of three years, or five years for architectural designs.

(6) If the contract does not specify a territory on which a user may use a work, the country of which the user is a national or the country of his seat, if he is a legal person, shall be considered as such territory.

#### **Effect and Duration of Contracts**

**Art. 37.** (1) A contract under which an author has granted use of all works which he may create for the rest of his life shall be considered null and void.

(2) A contract on the use of a work may not be concluded for a term exceeding ten years. Whenever such a contract has been concluded with a longer term of validity, it shall remain in force for ten 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 revenues resulting from the use of his work, as a fixed one, time amount or in other forms.

(2) Whenever the one-time compensation proves obviously incommensurate with the revenues resulting from the use of his work, the author may claim an increase of the said compensation. If no agreement can be reached between the parties, the issue shall be resolved through the courts ex aequo et bono.

## Avoiding a Contract when the Performance has not Commenced

**Art. 39.** (1) In the event that a contract granting exclusive rights does not specify a deadline by which the user should commence the use of the work, the author may avoid the contract if use of his work has not started within two years of the conclusion of the contract, or of the date of handing over the work, whenever such date is subsequent to the one on which the contract was concluded.

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

## Collective Management Organizations

**Art. 40.** (1) Authors may at their own free will establish organizations for the collective management of copyrights and grant to such organizations the right to conclude contracts on the use of their works in one or more ways and to collect moneys due.

(2) A publisher who has been granted by the author rights other than the right to publish may transfer management of these rights to an organization described in the preceding paragraph.

(3) The organizations carrying out collective management of copyrights may only be associations of authors and other proprietors of such rights. These organizations shall not operate for profit and shall distribute all moneys received from users among their members after making the deductions necessary for their own operation. The establishment and functioning of such organizations shall be carried out under 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 of incorporation and of any subsequent changes thereof within one month. The Ministry of culture shall keep a register of such organizations.

(5) An organization under [paragraph 1](#) shall not refuse membership to any person who is proprietor of such rights as that organization manages.

(6) The regulations on the distribution of the compensations collected by the organizations described in [paragraph 1](#) among the eligible members shall be proposed by the elected governing body of the organization and adopted by the general meeting of its members.

(7) (*Amended SG No. 28/2000*) The organizations under [paragraph 1](#) may represent their own members, the kindred organizations abroad with which they have concluded mutual representation contracts, and the members thereof, before all juridical or administrative bodies whenever the rights they manage are to be protected. For the protection of these rights, the organizations under [paragraph 1](#) may take on their behalf any legal action, including filing claims under [Articles 94](#) and [95](#), or demand the imposition of safeguard measures under [Article 96a](#), as well as measures under [Articles 96b](#), [96c](#), and [96d](#).

(8) (*New SG No. 28/2000*) In cases where this Act stipulates that the author's consent shall be granted only through a collective copyright management organization, the organization managing the respective rights shall also act on behalf of non-member authors and shall settle its relations with these authors in the manner it does with its members.

## Works Created Under an Employment Relationship

**Art. 41.** (1) Copyright over works created under an employment relationship shall belong to the author unless provided for otherwise in this Act.

(2) (*Amended SG No. 28/2000*) The employer shall have the exclusive right, without permission from the author and without paying compensation, to the extent the contract of

employment does not provide otherwise, to use such a work for his own purposes. The employer may exercise this right in a manner and to a degree corresponding to his customary activity.

(3) Whenever the compensation for the author for the work under [paragraph 1](#) proves incommensurate with the revenues under [Article 38, paragraph 2](#) collected as a result of the use of the work, the author may demand additional compensation. If no agreement can be reached between the parties, the issue shall be resolved through the courts *ex aequo et bono*.

### **Works Created by Special Order**

**Art. 42.** (1) Copyright over works created by special order shall belong to the authors unless otherwise provided for in the contract.

(2) Unless agreed upon otherwise, the ordering party may use the work without the permission of the author for the purposes for which it was ordered.

## *Section II Publishing Contract*

### **Definition**

**Art. 43.** With a publishing contract the author grants the publisher the right to reproduce and distribute his work, and the publisher is obliged 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 which has already been written, or one which the author has undertaken to write.

### **Expanding the Field of Application**

**Art. 45.** (1) Whenever by means of a publishing contract an author has granted a publisher the right to use the work for purposes other than publishing as well, the publisher may grant the use of the work for the said purposes to third parties if this is explicitly agreed upon.

(2) Whenever rights are transferred under [paragraph 1](#) above, the publisher shall inform the author in writing.

### **Form**

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

### **Special Non-Mandatory Rules**

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

1. the publisher has been granted rights for one printing only;
2. (*Amended SG No. 28/2000*) the publisher has been granted the right to publish the work in a circulation not exceeding ten thousand copies;
3. compensation to the amount of fifteen per cent of the retail price of each sold copy of the work shall be due to the author;
4. the number of copies which the publisher may provide to the author free of charge may not be less than five for each printing;
5. the publisher shall publish the work in the language in which he has received it;

6. the publisher may distribute the work only in the territory of his country of nationality or the one in which his seat is situated if he is a legal person.

### **Amendments**

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

### **Returning Originals Offered for Publication**

**Art. 49.** The publisher shall return the originals of works of fine art, original documents, illustrations and other originals offered for publication unless agreed upon otherwise in writing.

### **Destroyed Copies**

**Art. 50.** In the event that reproduced but not yet offered for sale copies of the work are fully or partially destroyed, but not through the publisher's fault, the latter may restore the destroyed copies within one year without providing compensation to the author.

### **Termination of Contract**

**Art. 51.** Unless agreed upon otherwise, a publishing contract shall be terminated on the date of its expiration or when the run is sold out, or when the last run is sold out if more than one printings have been agreed upon.

### **Cancellation Prior to Expiration of the Contractual Term**

**Art. 52.** (1) Unless agreed upon otherwise, the author may cancel the publishing contract unilaterally by written notice whenever that contract was concluded for more than one printing and the run of the last printing was sold out and no subsequent reproduction and distribution of the work was undertaken by the publisher within one year, provided that the author had requested the publisher to do so within the same term. A print run shall be assumed sold-out whenever the number of unsold copies amount to no more than five per cent of the total circulation.

(2) In the cases under [paragraph 1](#) above, the author shall not be liable to refund the compensation already received.

### **Publishing at the Expense of the Author**

**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 conclude an agreement with a publisher to reproduce and distribute copies of a work by assuming part of the expenses and participating in the distribution of the revenues.

### **Contracts on Reproduction and Distribution of Phonograms**

**Art. 54.** (1) (*Amended SG No. 28/2000*) Unless provided for otherwise in the contract on reproduction and distribution of the work in the form of phonogram and the author has not granted the management of these rights to a collective management organization, it shall be considered that:

1. the user shall make the recording within six months of the date when the author handed over the work in a form permitting its recording, and for reproduction and distribution, within six months after the recording was made;

2. the user has been granted the right to reproduce the work in a circulation not exceeding five thousand copies;

3. the author shall be entitled to compensation equal to the respective part of 10 per cent of the wholesale price of each piece of the sound medium sold, proportional to the duration of his work versus the total duration of the sound medium;

4. the user shall provide to the author five copies of each manufactured version of the sound media free of charge.

(2) (Repealed SG No. 28/2000)

(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 performances, or broadcasting by wireless, cable or other technical means. The inclusion of such rights shall be agreed upon explicitly by the parties.

### *Section III Contract on Public Presentation or Performance*

#### **Definition**

**Art. 55.** With a contract on public presentation the author of a performing arts work shall grant a user the right to present the work, and the user shall present the work and pay compensation to the author.

#### **Non-Mandatory Rules**

**Art. 56.** Unless provided for otherwise in a contract, it shall be assumed that:

1. the author may grant the right to public presentation to other users outside the city in which the user has headquarters;

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

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

4. (*Amended SG No. 28/2000*) the author's compensation shall amount to fifteen per cent of the gross revenues of 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 revenues raised;

6. the author may cancel the contract whenever the user has halted the public presentations of the work for a period longer than one year.

#### **Contracts on the Use through Wireless, Cable or Other Technical Means**

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

#### **Contract on Public Performance**

**Art. 58.** (1) (*Amended SG No. 28/2000*) Consent on the public performance, live or recorded, on broadcasting by wireless, cable or other technical means of musical and literary works which have already been made available to the public, shall be provided in writing by the author or by a duly authorized organization carrying out collective management of copyrights which shall negotiate, collect and pay the compensations due. When the consent is given by a collective



management organization, the user shall render to the latter a precise account of the works used and of the authors thereof.

(2) (*New SG No. 28/2000*) Consent under [paragraph 1](#) for the retransmission of works by cable or other technical means shall be given only by the collective copyright management organization.

#### *Section IV Contract on Publishing in a Periodical*

##### **Right to Use a Work Written Under Contract**

**Art. 59.** (1) An author who has written an ordered work may not, without the consent of the publisher, offer that work or parts thereof to other periodicals, for publishing as an individual publication, or for wireless broadcasting prior to its being published by the publisher.

(2) Unless agreed upon otherwise, the restrictions under the preceding paragraph shall not apply whenever fifteen days, for newspapers, and three months, for magazines, have elapsed since the turning in of the manuscript and the publisher has failed to publish or to inform the author within those periods of time that he will publish and to point out the number of the publication in which that will be done.

##### **Right to Second Use**

**Art. 60.** The author may use a work already published in a periodical after the date of publication unless agreed upon otherwise in writing.

#### *Return of Materials Offered for Publication*

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

#### **Section V Making and Using Films and Other Audio-Visual Material**

##### **Proprietors of Rights**

**Art. 62.** (1) Copyright over films and other audio-visual works shall belong to the director, the author of the screenplay and the director of photography.

(2) The authors of the music, dialogue, the already existing literary work upon which the audio-visual work was made, the costumes, the scenographers, and the authors of all other materials contained in it shall retain copyrights over their individual works.

(3) A producer within the meaning of this section shall be the natural or legal person who shall organize the production of the work and provide its financing.

##### **Contracts on Production and Use**

**Art. 63.** (1) The authors under [Article 62](#) shall conclude with producers written contracts that, unless agreed upon otherwise or provided for otherwise in this Act, shall be deemed to grant producers the exclusive right to reproduce, show publicly, broadcast by wireless, cable or other technical means, reproduce and distribute on video media, authorize translation, dubbing and subtitling of the work within the country and abroad.

(2) The producer shall pay the authors under the preceding article compensation for the rights granted. In this case the provisions of [Article 41, paragraph 2](#) and [Article 42, paragraph 2](#) shall not apply.



(3) Whenever any of the authors under [Article 62](#) refuses to complete his part of the film or other audio-visual work, or fails to do so through no fault of his, he shall not prevent the use of the work already completed by him for the completion of the whole project. That shall not prevent him from retaining copyright over the portion of the work he has completed with all ensuing consequences.

(4) An audio-visual work shall be considered completed whenever by agreement between the director and producer a final version has been established.

(5) Any changes in the final version through addition, elimination or change of elements may only be made with the consent of the persons under [paragraph 4](#).

(6) Should a producer become bankrupt, authors under [Article 62](#) shall be entitled to the right to purchase the starting materials of the work at the highest offered price if he wishes so in writing within three days of closing of tender.

(7) In the event that the producer decides to destroy the initial materials for the final version he must before that offer these materials gratuitously to the persons under [Article 62, paragraph 1](#).

(8) (*New SG No. 28/2000*) 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 initial materials for the final version of the work shall lodge these materials with the National Film Library. This shall apply only to films whose producer is a Bulgarian natural or legal person.

### Secondary Use

**Art. 64.** The producer may grant to third parties, as long as they assume the obligations under [Article 65](#), the right to broadcast the work by wireless, cable or other technical means, to reproduce it on video media for distribution and public showing. He shall however inform the authors under [Article 62, paragraph 1](#) in writing within one month, unless provided for otherwise by this Act.

### Compensation

**Art. 65.** (1) (*Amended SG No. 28/2000*) The director, the author of the screenplay, the director of photography and the composer shall be entitled to compensation other than the compensation under [Article 63, para \(2\)](#) and for each type of use of the film or audio-visual work, while the other authors named in [Article 62](#) shall be eligible for such compensation if that has been specifically agreed upon.

(2) Compensations for different types of use of a work shall be provided by the respective users and may, upon the authors' request, be received through the producer or through an organization carrying out collective management of copyrights. In the latter case, the producer shall include such a provision in the contracts concluded on the use of the work.

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

(4) Irrespective of the compensation under [paragraph 3](#), the authors under [paragraph 1](#) shall be entitled to a percentage of every revenue of the producer.

### Reporting to Authors

**Art. 66.** At the request of the persons under [Article 62](#), the producer shall provide to them at least once a year a statement on the revenues collected from 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 in such volume as is necessary for advertising the film without seeking the consent of the authors and without providing compensation to them. He may use such parts or frames for other purposes only with the consent of the authors under [Article 62, paragraph 1](#) and shall pay them compensation. Other persons may use parts or frames only with the consent of the authors under [Article 62, paragraph 1](#) and shall pay them compensation.

### *Section VI Use of Works of Fine Art, Architecture and Photography*

#### **Assumption of Granted Rights to Public Display**

**Art. 68.** (1) (*Amended SG No. 28/2000*) The transfer of ownership over works of fine art and photographic works or works expressed by a process analogous to photography shall include, unless agreed upon otherwise in writing, transfer of the right to publicly display the said works.

(2) (*New SG No. 28/2000*) The transfer of the right to use an architectural design shall include, unless agreed upon otherwise in writing, transfer of the right to publicly display the design.

#### **Subsequent Use of Architectural Designs**

**Art. 69.** The written consent of the author shall be required for every subsequent use of the architectural design of an already completed building or other facility.

### *Section VII Use of Computer Software*

#### **Non-Mandatory Rules**

**Art. 70.** Unless agreed upon otherwise it shall be deemed that the person who has lawfully acquired the right to use a computer program may use that program, display it on screen, execute it, transmit it, store it in the memory of his computer, translate it, revise it and effect other changes in it as long as such actions are necessary for attaining the objective for which the right to use that program was 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 shall not seek the consent of the author and shall not pay additional compensation in order to:

1. prepare a back-up copy of the program whenever one is necessary for the respective use for which the program had been acquired;

2. observe, study and test the action of the program in order to determine the ideas and principles which may be embodied in any of its elements as long as this is done in the process of loading the software, its display on a screen, its execution, transmission or storage in the computer memory and only if that person is entitled to carry out such actions pursuant in [Article 70](#);

3. (*Amended SG No. 28/2000*) translate the programming code from one form into another only if that is absolutely necessary for achieving compatibility of an existing program with other programs and on the condition that the necessary information on how to do that is not provided and that such actions are undertaken only in respect to such parts of the program as are necessary for achieving compatibility. The information thus obtained shall not be used for the creation and distribution of programs, differing insignificantly from the program, with translated programming code, nor for any other actions that may violate copyrights over the software.

## Part Two NEIGHBOURING RIGHTS

### Chapter Eight GENERAL PROVISIONS

#### Proprietors and Objects of Neighbouring Rights

**Art. 72.** (*Amended SG No. 28/2000*) The following shall have rights, neighbouring to the copyright, over their works:

1. performing artists over their performances;
2. producers of phonograms over their recordings;
3. (*New SG. No. 28/2000*) producers of the initial recording of a film or another audio-visual work over the original copy, as well as over the copies produced as a result of this recording;
4. radio and television organizations over their programs.

#### Collision with Copyright (New SG. No. 28/2000)

**Art. 72a.** The neighbouring right may not be exercised in a manner which might result in infringing upon or restricting copyrights.

#### Exercising Neighbouring Rights through Collective Management Organizations

**Art. 73.** (*Amended SG. No. 28/2000*) The economic rights of performing artists, of producers of phonograms, of film producers, and of radio and television organizations may be exercised by duly empowered organizations conducting collective management of rights pursuant to the provisions of [Article 40](#).

## Chapter Nine RIGHTS OF PERFORMING ARTISTS

#### Proprietors of Rights

**Art. 74.** (*Amended SG. No. 28/2000*) A performing artist is a person who presents, sings, plays, dances, recites, acts, directs, conducts, comments upon, dubs into another language, or performs in another manner a work, circus or variety show number, one in a puppet show or a folkloric work.

#### Non-Economic Rights

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

1. to demand that his name, pseudonym or stage name are referred to or announced in the customary manner during every live performance or use of a recording of that performance in any manner whatsoever;
2. to demand the preservation of the entirety and integrity of a recorded performance at the time of its 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, as well as a sound or video recording of the performance, the reproduction of the recording on audio or video media and their distribution;

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

3. (*New SG. No. 28/2000*) offering by wireless, cable or other technical means of access for an unlimited number of persons to his recorded performance or part thereof in a manner permitting the access to occur from any place and at any time individually chosen by each one of these persons.

(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 revenues, one-time payment or in another manner.

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

(4) (*Repealed SG. No. 28/2000*)

## Secondary Use

**Art. 77.** The amount of compensation of the performing artists and producers of sound recordings for broadcasting by wireless, cable or other technical means or for public performance through audio or other equipment for works which have already been made available to the public, shall be determined pursuant to [§ 5](#) of the Additional Provisions, and half of the amount shall be paid to the performing artists, and the other half to the producers.

## Participation in Filming

**Art. 78.** (1) (*Amended SG. No. 28/2000*) Unless agreed upon otherwise in the performance contract, it shall be deemed that the performing artist who has participated in the making of a film or other audio-visual work has thereby granted the producer of the work the right to public showing of that recorded work, as well as the right to broadcast it by wireless, cable or other technical means, and to reproduce and distribute it on video media.

(2) A role played by a performing artist in a film or another audio-visual product may carry the voice of another person only with the consent of the performing artist who has played the part.

(3) (*New SG. No. 28/2000*) The contracts under [paragraph 1](#) concluded with artists playing the leading parts provide for an additional compensation as a percentage of every gross income of the producer resulting from the use of the work. Such compensations shall be paid to the artists, as agreed, either by the producer or by the respective users. Whenever the compensations are paid by the respective users, the producer shall make the relevant provisions in the contracts he concludes for using the work. If no compensations have been negotiated, they shall be determined on the basis of an agreement between the artists' associations on one hand, and the producers or their associations, on the other.

(4) (*New SG. No. 28/2000*) The artists playing the leading parts under [paragraph 3](#) shall be, until proof provided to the contrary, the persons whose names appear in the titles of the film in a manner which indicates unambiguously that they are believed to be so. Whenever such indication are missing, possible explicit stipulations may be included in the contract between the producer and the performing-artist; if there are no such stipulations or the contract has not been presented, the explicit opinion of the author of the screenplay shall be taken into account, which shall be presented in writing at any time.

### **Permission from Collective Performers**

**Art. 79.** The participants in collective performances, such as choirs orchestras, ensembles and other artistic groups, shall empower in writing one person to grant the permissions under this chapter regarding the use of their performances. The soloists and conductor, as well as the director of the staged performance shall provide permissions individually.

### **Announcing Names with Collective Performances**

**Art. 80.** For collective performances the name of the ensemble or group as a whole shall be indicated or announced in the customary manner the names of the soloists, conductor and director of the staged performance shall be announced individually, unless it is agreed upon otherwise with the said persons.

### **Performance under an Employment Relationship**

**Art. 81.** The permission under [Article 76, paragraph 1](#) to use a performance done under an employment relationship shall be granted by the employer unless agreed upon otherwise with the performing artist.

### **Duration**

**Art. 82.** The rights of the performing artists shall remain in force for fifty years. This term shall commence on January 1 of the year following the year in which the recording of the performance was published or whenever the recording has not been published or the performance has not been recorded, on January 1 of the year following the year in which the first performance was held.

### **Protection of Names of Artistic Groups**

**Art. 83.** (1) (*Amended SG. No. 28/2000*) The names of artistic groups shall be registered by the Ministry of Culture in a manner established by the Council of Ministers. Charges for lodging registration applications, for register inquiry services, and for issuing documents with information recorded in the register shall be collected at a rate established by a tariff adopted by the Council of Ministers.

(2) (*New SG. No. 28/2000*) The names of artistic groups shall be registered in the Cyrillic alphabet alone. If requested by the applicant, the registration may also contain the same name in another alphabet.

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

(4) In the event that another group has used the same or a similar name prior to the registration, it may seek the voiding of that registration.

(5) Disputes over similarities of names, or over which group was the first to use a name, shall be settled by the courts.

(6) The right to a name under [paragraph 1](#) shall be protected for ten years after the artistic group has discontinued its operation. This term shall commence from January 1 of the year following the one in which operation was discontinued.

### Application by Analogy

**Art. 84.** (Amended SG. No. 28/2000) The provisions of [Article 18, paragraph 4](#), [Articles 21, 22](#), [Article 23, items 4, 6, 7](#), and [8](#), [Articles 24 through 26](#), [Articles 32 through 34](#), [Article 37](#) and [Article 58](#) shall be applied regarding the rights of the performing artists.

## Chapter Ten RIGHTS OF PRODUCERS OF PHONOGRAMS

### Proprietors of Rights

**Art. 85.** The producer of a phonogram shall be the natural or legal person who has organized the first recording and has provided its financing.

### Economic Rights

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

1. the reproduction and distribution of the phonogram;
2. the import and export of copies of the phonogram, irrespective of whether they have been manufactured legally or in violation of the rights under [item 1](#);
3. public performance and broadcasting by wireless, cable or other technical means.
4. (New SG. No. 28/2000) offering by wireless, cable or other technical means of access for an unlimited number of persons to the recording or part thereof in a manner permitting the access to occur from any place and at any time individually chosen by each one of these persons.

(2) The producer may grant under a contract some of his rights under [paragraph 1](#) to other persons, including the author and the performers of the recorded work.

### Non-Economic Rights

**Art. 87.** (1) The producer may require that his name is featured in the customary manner on the sound media and their jackets whenever recordings made by him are reproduced and distributed.

(2) Until proved otherwise, the person whose name, title or other identifying mark is inscribed on the phonogram in the customary manner shall be considered the producer of that recording.

### Secondary Use

**Art. 88.** The compensation to producers of phonograms which have already been made available to the public for broadcasting by wireless, cable or other technical means, or public broadcasting by sound equipment or by other means, shall be determined and paid in the manner described in [Article 77](#).

### Duration

**Art. 89.** The rights of producers under this chapter shall be in force for fifty years. This term shall commence on January 1 of the year following the year in which the phonogram was published,



or if the phonogram is not published, as of the beginning of the year following the year when the phonogram was made.

#### Application by Analogy

**Art. 90.** (Amended SG. No. 28/2000) The provisions of [Article 18, paragraph 4](#), [Article 21](#) and [22](#), [Article 23, items 4](#) and [7](#), [Article 25](#), [Article 26](#) and [Article 58](#) shall apply regarding the producers of phonograms.

## Chapter Ten “a” (New SG. No. 28/2000) RIGHTS OF FILM PRODUCERS

### Content of the Rights

**Art. 90a.** (1) The producer of the initial recording of a film or another audio-visual work shall have, with respect to the original copy of the film and the copies thereof produced as a result of this recording, the exclusive right to grant permission against compensation for:

1. their duplication;
2. their screening before the public;
3. their broadcasting by wireless;
4. their transmission by cable or other technical means;
5. their reproduction;
6. their distribution;
7. their translation, dubbing into another language or sub-titling;
8. offering by wireless, cable or other technical means of access for an unlimited number of persons to the film or part thereof in a manner permitting the access to occur from any place and at any time individually chosen by each one of these persons.

(2) The producer shall be entitled to require that the name or the title of the film be indicated in the usual manner every time the film has been used.

### Duration

**Art. 90b.** The rights of producers under this Chapter shall be protected for fifty years. This term shall begin as of January 1 of the year, following the year in which the film has been made available to the public; whenever the film has not been made available to the public, the term shall begin as of January 1 of the year, following the year in which the film has been made.

### Application by Analogy

**Art. 90c.** The provisions of [Article 18, paragraph 4](#), [Articles 21](#) and [22](#), [Article 23, items 4](#), [6](#) and [7](#), [Articles 24 through 26](#), and [Article 58](#) shall apply to film producers as well.

## Chapter Eleven RIGHTS OF RADIO AND TELEVISION ORGANIZATIONS

### Content of Rights



**Art. 91.** (*Amended SG. No. 28/2000*) (1) The radio or television organization which has first broadcast or transmitted a program shall have the exclusive right to grant permission against compensation for:

1. rebroadcasting of the program by wireless or re-transmitting it by cable or other technical means;
2. recording, reproduction and distribution of the recordings of the program;
3. offering by wireless, cable or other technical means of access for an unlimited number of persons to the program or part thereof in a manner permitting the access to occur from any place and at any time individually chosen by each one of these persons.

(2) The provision of the preceding paragraph shall also apply whenever a program sent by a radio or television organization via signal to a communications satellite, is rebroadcast, re-transmitted, recorded, reproduced or distributed by other persons.

(3) (*New SG No. 28/2000*) Whenever the radio or television organization under [paragraph 1](#) or a duly authorized person thereby restrict the number of persons receiving the program by encoding the signal which contains it, the consent shall be considered given only if the decoding device has been provided by the broadcasting organization, or with its consent.

(4) (*New SG No. 28/2000*) At the time of every use of the program under [paragraph 1](#) the user-organization shall announce in a suitable manner the name of the organization which has first broadcast or transmitted the program.

### **Duration**

**Art. 92.** The rights of radio and television organizations under this chapter shall remain in force for fifty years. This term shall commence as of January 1 of the year following the year in which the program was broadcast or transmitted for the first time.

### **Application by Analogy**

**Art. 93.** The provisions of [Article 23, items 4](#) and [7](#) and [Article 25](#) shall apply to radio and television organizations.

**Art. 93a.** (Repealed SG. No. 28/2000).

## **Part Three**

# **PROTECTION OF COPYRIGHT AND NEIGHBOURING RIGHTS**

## **Chapter Twelve**

### **PROTECTION BY CIVIL LAW**

#### **Action for Compensation**

(*Amended SG. No. 28/2000*)

**Art. 94.** (1) Whoever violates copyright or a neighbouring right shall owe compensation for the damages incurred to the proprietor of the right or the person to whom exclusive user rights have been granted.

(2) (*New SG. No. 28/2000*) When the grounds of the claim have been established but there is no sufficient information about the amount of the compensation, the persons under [paragraph 1](#) may demand the following instead of a compensation:

1. the revenues received as a result of the violation, or
2. the value of the object of violation at retail prices, or
3. an amount ranging from seventy levs to thirty five thousand levs.

### Other Actions

**Art. 95.** (*Amended SG. No. 28/2000*) Whenever a work or the objects under [Article 72](#) are used in violation of the provisions of this Act, the proprietor of the copyright or the person to whom the user right has been exclusively granted may bring an action before the court for:

1. restraining the illegitimate use:
2. seizing and destroying illegitimately produced copies of the work, including negatives, master copies, printing forms and others used for the purposes of copying:
3. (*Amended SG. No. 28/2000*) seizing and putting out of operation the copying, decoding and reproducing equipment used exclusively for committing violations:
4. receiving the objects under [item 2](#).

### Competent Courts

**Art. 96.** Disputes arising out of the application of this Act shall be settled by the district courts.

### Safeguard Measures (New SG. No. 28/2000)

**Art. 96a.** (1) When a copyright or a neighbouring right has been violated or when there are sufficient grounds to believe that such violation will be committed or some evidence will be lost, destroyed or concealed, the court, upon request by the right-holder or by the person to whom the exclusive user right has been granted, may, without informing the other party, permit some of the following safeguard measures:

1. interdict the performance of activity which is claimed to constitute or to be going to constitute an illegal use of a work or an object under [Article 72](#):
2. seize the copies of the work or the objects under [Article 72](#) which are claimed to have been illegally reproduced, as well as the negatives, master forms, stereotype plates and others designed for reproduction of the copies:
3. seize out of use or interdict the use of machines which are claimed to have been used or will be used to commit violations;
4. seal the premises in which it is claimed that violations are being committed or will be committed:

(2) The permission, imposition and revocation of safeguard measures shall be done according to the procedures stipulated in [Articles 165 through 170](#) and [308 through 322](#) of the Code of Civil Procedure, with the exception of [Article 317, paragraph 2](#), sentence one, and unless this Act provides for otherwise.

(3) The safeguard measure “interdiction of performance of the activity“ shall be imposed on the grounds of a law-court notification.

(4) The safeguard measures under [paragraph 1, items 2, 3 and 4](#) shall be imposed by an executive judge who shall perform the act simultaneously with serving the notification of permission about the safeguard measure to the defendant. The property seized, together with a check list, shall be handed over to be kept by the plaintiff who may use it only as an evidentiary material.

(5) The plaintiff or a representative thereof may be present and cooperate when the safeguard measures are being imposed.

(6) The safeguard measures under [paragraph 1, items 2, 3 and 4](#) shall be imposed within three days of the day on which the executive judge has received the plea of the plaintiff. Safeguard measures which have been permitted to prevent an impending violation shall be imposed within a term which takes account of their purpose.

(7) If it is established that an imposed safeguard measure has been requested without any ground, the aggrieved party may demand from the person who has requested the measure to pay for the damages inflicted thereby.

## Chapter Twelve “a” (New SG. No. 28/2000) FRONTIER MEASURES

### Rationale and Field of Application

**Art. 96b.** (New SG No. 28/2000) (1) A copyright-holder or proprietor of a neighbouring right, as well as a person to whom the exclusive user right has been granted may demand from the customs authorities to impound any goods transported across the state border of the Republic of Bulgaria, for which there are grounds to believe that they violate the rights protected by this Act. To cover impounding expenses, charges shall be due at a rate established by a tariff adopted by the Council of Ministers.

(2) When the place of residence or the registered office of the claimant are outside this country, he shall specify a judicial address within the territory of the Republic of Bulgaria.

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

(4) The impounding 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 transit goods.

### Impounding Procedure

**Art. 96c.** (New SG No. 28/2000) (1) Impounding shall be effected on the basis of a claim in writing lodged by a person under [Article 96b, paragraph 1](#), which claim shall contain proof of the rights of the claimant, as well as grounds to believe that these rights have been violated.

(2) After establishing the presence of the circumstances under [Article 96b, paragraph 1](#), the customs authorities shall impound the goods and shall determine for the claimant a guarantee in money or property, which shall cover his probable liability in case the impounding of goods turns out to be groundless.

(3) The customs authorities shall notify without delay the claimant, the consignor and the consignee about impounding of the goods. The same persons are entitled to inspect the impounded goods and to receive information about them.

(4) If within ten working days of the date of being notified under [paragraph 3](#) about the impounding of goods, the claimant does not present any proof that legal proceedings have been initiated by the relevant court for resolving the dispute in substance or that a safeguard measure has

been permitted, the customs authorities shall release the impounded goods, provided that all requirements for standard import or export have been satisfied. The release of the guarantee presented shall be performed according to the procedure established by [Article 322, paragraph 2](#) of the Code of Civil Procedure. In case the claimant files a well grounded request, the term may be extended by another ten working days.

(5) The competent authorities before whom the legal procedure under [paragraph 4](#) has been initiated shall decide upon request by the interested party whether the impounding measure should be confirmed, modified, or repealed.

(6) Whenever after the request for impounding no procedure under [paragraph 4](#) is initiated or it turns out that the request has been groundless, the aggrieved party shall be entitled to indemnification.

### Customs Authorities Actions ex officio

**Art. 96d.** (*New SG No. 28/2000*) (1) The customs authorities may on their own initiative or upon request by another government agency impound goods about which they have grounds to believe that they violate the rights protected by this Act.

(2) In such cases the customs authorities shall inform without delay the persons under [Article 96b, paragraph 1](#), the consignor and the consignee and shall provide them with the opportunity to inspect the impounded goods. The customs authorities may demand from the right-holder or the proprietor of neighbouring rights any information that may be needed for an expertise.

(3) The decision under [paragraph 1](#) may be appealed according to the procedure established by the Administrative Procedure Act.

(4) If within 10 working days of the day on which the goods have been impounded no procedure has been initiated by the relevant court for resolving the dispute in substance or no ruling has been entered by the court on permitting a safeguard measure, the customs authorities shall release the impounded goods, provided that all requirements for standard import and export have been satisfied.

(5) The customs authorities shall bear no responsibility for the actions they have undertaken in good faith to impound the goods.

### Additional Regulation

**Art. 96e.** (*New SG No. 28/2000*) (1) The Council of Ministers shall adopt a regulation on the implementation of this Chapter.

## Chapter Thirteen PENAL ADMINISTRATIVE PROVISIONS

### Penalties

**Art. 97.** (1) Whoever commits the following in violation of this Act

1. (*Amended SG. No. 28/2000*) reproduces and distributes video media with recordings of films or other audio-visual works;
2. (*Amended SG. No. 28/2000*) reproduces and distributes audio media with recordings of works;
3. organizes in any manner whatsoever public showings of films or other audio-visual works;

4. (Amended SG. No. 28/2000) offers sound or video recording services to third parties consisting of the preparation of single copies of works or other objects protected by this Act;
5. organizes live or recorded public performance or presentation of a work;
6. broadcasts by wireless, cable or other means works or a radio or television program;
7. (Amended SG. No. 28/2000) publishes or distributes already published works;
8. (Amended SG. No. 28/2000) owns a computer program knowing or having grounds to suppose that this is illegal;
9. (New SG. No. 28/2000) reproduces, distributes or uses in another manner a computer program;
10. (New SG. No. 28/2000) reproduces or distributes works of applied arts, design and crafts, photographic works or works which have been made in a manner similar to that of photography;
11. (New SG. No. 28/2000) uses illegally a work under [Article 3, paragraph 1, item 8](#);
12. (New SG. No. 28/2000) hinders the imposition of a safeguard measure under [Article 96a](#);

shall be liable to a fine from two hundred thousand to two million levs, unless the violation is punishable by a more severe penalty and the object of the violation, regardless of whose property it may be, shall be seized in favor of the State and shall be delivered to be destroyed by the bodies of the Ministry of the Interior.

(2) (Amended SG. No. 28/2000) A second and subsequent violation under [paragraph 1](#) committed within one year of the imposition of the previous penalty, shall be punished by a fine from one million to five million levs and the object of the violation, regardless of whose property it may be, shall be seized in favor of the state and shall be delivered to be destroyed by the bodies of the Ministry of the Interior.

(3) In the event of systematic violations the facility where these violations have been committed, such as a store, studio, establishment, cinema, theatre, company principal office, etc. shall be closed for three to six months.

(4) Organizations conducting collective management of rights under this Act which act in violation of [Article 40, paragraph 4](#) shall be fined from two hundred thousand to two million levs.

(5) (New SG. No. 28/2000) The sanctions under [paragraph 1](#) or [2](#) shall be imposed on any person who produces, distributes, advertises or imports, as well as possesses for commercial purposes a decoding device which may provide access to an encoded signal for persons who are outside the audiences specified by the broadcasting organization.

(6) (New SG. No. 28/2000) The sanctions under [paragraph 1](#) or [2](#) shall be imposed on any person who removes, damages, destroys or puts out of order, without being entitled to do so, any technological means used by right-holders whose rights are protected by this Act.

(7) (New SG. No. 28/2000) The sanctions under [paragraph 1](#) or [2](#) shall also be imposed on any person who, without being entitled to do so and being aware or having the grounds to suppose that this act is going to cause permit, facilitate or conceal the violation of a right protected by this Act;

1. removes or modifies information presented in an electronic form about the regime of rights over an object of copyright or a neighbouring right.

2. distributes, including imports for the purposes of distribution, performs publicly, broadcasts by wireless or transmits by cable or other technical means an object of copyright or a neighbouring right, offers access to an unlimited number of persons to such an object in a manner

permitting the access to occur from a place and at a time individually chosen by each one of these persons, knowing that the information presented in an electronic form about the regime of rights over this object has been removed or modified without any right to do so.

(8) Information about the regime of rights under [paragraph 7](#) shall be the information which makes it possible to identify the object of a copyright or a neighbouring right, the right-holder, as well as the information about the conditions for using such an object, including any number or code leading to such information provided that any of these elements of information is present on the copies of the object or is shown when the objects is made available to the public.

### **Establishment of Violations, Issuing of Fine Tickets and Penal Ordinances**

#### **(Amended SG. No. 28/2000)**

**Art. 98.** (1) (*Amended SG. No. 28/2000*) The fine tickets establishing violations under [Article 97](#) shall be issued by bodies duly empowered by the minister responsible for culture with the assistance of the bodies of the Ministry of the interior.

(2) Penal ordinances shall be issued by the minister responsible for culture or by other persons authorized by him.

(3) The establishment of the existence of violations the issuing, appeal and execution of penal ordinances shall be conducted under the Administrative Violations and Penalties Act.

(4) (*Amended SG. No. 28/2000*) Fifty per cent of the funds from fines raised under [Article 97](#) shall be credited to the account of the “Culture“ National Fund, while the rest shall go to the budget of the Ministry of Culture and shall be disbursed on the protection of copyright and the conditions and procedure for allocation of funds shall be specified by the Council of Ministers.

## **Part Four APPLICABLE LAW**

### **Applicable Law for Literary, Artistic and Architectural Works**

**Art. 99.** (1) This Act shall apply to:

1. works whose authors are citizens of the Republic of Bulgaria or permanent residents thereof regardless of where the said works have been published for the first time;

2. works whose authors are nationals of a state with which the Republic of Bulgaria is bound by a copyright treaty, or persons residing permanently in such a country regardless of where the said works have been published for the first time;

3. works published for the first time or implemented as architectural designs in the territory of the Republic of Bulgaria or in the territory of a state which has a copyright treaty with the Republic of Bulgaria, irrespective of the nationality of the authors;

4. works which have been published for the first time in the territory of a state with which the Republic of Bulgaria is not bound by a copyright treaty, when such works have been published simultaneously or within thirty days in the territory of the Republic of Bulgaria, or in the territory of a state with which the Republic of Bulgaria has such an agreement.

(2) Whenever this Act is applied to works created by nationals of other states or to works which have been published abroad first, the proprietor of the copyright shall be determined under the respective foreign law.



(3) (*New SG. No. 28/2000*) With respect to works created by citizens of foreign states, or to works which were first published abroad, the duration of copyright shall be specified by the relevant foreign law, if it provides for protection terms shorter than the ones specified in this Act.

### Applicable Law for Performances

**Art. 100.** (1) This Act shall apply to the performances of performing artists who are citizens of the Republic of Bulgaria or are permanent residents thereof irrespective of where such performances have been made.

(2) This Act shall apply to the performances of foreign performing artists in the territory of the Republic of Bulgaria.

### Applicable Law for Recordings, Programs and Films

**Art. 101.** (*Amended SG. No. 28/2000*) This Act shall apply to the objects under [Article 72 items 2, 3 and 4](#), made by natural persons who are citizens of the Republic of Bulgaria or are permanent residents thereof, or by legal persons whose seat is in the territory of the country, irrespective of where such recordings may have been made, as well as to recordings made or simultaneously published for the first time by foreign persons on the territory of the Republic of Bulgaria.

### Application of Treaties

**Art. 102.** (*Amended SG. No. 28/2000*) The rights of foreign performing artists, producers of phonograms, radio and television organizations and film producers other than those referred to in [Article 100 paragraph 1](#) and [Article 101](#), shall be protected under the treaties covering neighbouring to copyright rights to which the Republic of Bulgaria is party.

## ADDITIONAL PROVISIONS

**§ 1** (1) The copyright proprietor as well as a person who has been granted the exclusive right to use a work protected by this Act, may place the Latin letter “C” surrounded by a circle at a suitable place on the copies of the work in front of their names or titles, or the year of making available to the public.

(2) The producer of a phonogram as well as a person who has been granted the exclusive right to reproduce a phonogram protected by this Act, may place the Latin letter “C” surrounded by a circle at a suitable place on the copies of the work in front of their names or titles or the year of the first publication.

**§ 1a.** (*New SG. No. 28/2000*) (1) It is not permitted to acquire, appropriate, or keep for commercial purposes durable material media containing copyright-protected objects which have been reproduced in violation of the law.

(2) The durable material media under [paragraph \(1\)](#) shall be seized in favor of the state on the basis of an act issued by the relevant penal administrative body, or by the court, and shall be delivered to be destroyed by the bodies of the Ministry of the Interior.

**§ 2.** For the purposes of this Act:

**1.** “making available to the public of a work“ means the bringing of 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 or manner in which this may be done;



2. “publishing a work“ means the bringing of a work to the attention of an unlimited number of persons through reproduction and distribution of its copies, including in the form of audio or video recordings, the number of which shall be adequate depending on the nature of the work;

3. (Amended SG. No. 28/2000) “reproduction of a work“ shall mean duplicating directly or indirectly the work or part thereof in one more copies, in any manner and in any form, permanent or temporary, including saving the work in a digital form on an electronic medium;

4. “distribution of a work“ means the sale, exchange, donation, renting or loaning, the import and export, as well as the offer to sell or rent originals or copies of the work. The renting or loaning of works of architecture, applied art and crafts shall not be considered as distribution under this Act;

5. (Amended SG. No. 28/2000) “broadcasting of a work by wireless means“ shall mean its broadcasting on radio and television, or over ground, as well as its transmission by signal to a satellite and back to Earth permitting its reception either directly and individually by the public, or through an intermediary organization different from the transmitting authority;

6. (Amended SG. No. 28/2000) “users of a work“ shall be natural or legal persons such as publishers, theatres, concert organizers, radio or television organizations, public catering and entertainment establishments, producers of phonograms, film producers, and others who bring the work to the attention of readers, viewers and listeners directly or through the services of distributors;

7. “an audio recording“ shall mean the fixing on a lasting material medium of a sequence of sounds in such a manner as would permit their listening, reproduction, re-recording and broadcasting by wireless, cable or other technical means;

8. “a phonogram“ shall be the product of audio recording;

9. “architectural works“ shall mean buildings and other equipment and their elements, durable objects of the synthesis of architecture with other arts, as well as durable interior decorations which meet the general terms under [Article 3, paragraph 1](#).

10. (Amended SG. No. 28/2000) “a means of decoding“ shall stand for 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 encoded signal in the form before the encoding has taken place.

11. (New SG. No. 28/2000) “an encoded signal“ shall mean any radio or TV signal which is broadcast, transmitted, re-broadcast or retransmitted through any technical means whose characteristics have been deliberately modified to restrict access to the signal for a specified audience alone;

12. (New SG. No. 28/2000) “audio-visual works“ shall stand for series of interconnected images fixed on any type of medium, with either a soundtrack or not, perceived as a mobile picture and used in any manner, which satisfy the general conditions stipulated in [Article 3, paragraph 1](#).

§ 3. (Amended SG. No. 28/2000) The definitions contained in [items 1, 2, 3, 4, and 5](#) of the preceding paragraph shall also apply to the objects under [Article 72](#).

§ 4. (1) Each copy of a work of fine art signed personally by its author shall be considered an original. The number of originals shall be established by the author and shall be announced in a suitable manner at the first announcement of the work, and cannot be the subject of subsequent change. Each copy shall carry a successive number.

(2) The provision of [paragraph 1](#) shall not apply to works of applied art, design and crafts.

§ 5. (1) The amount of compensation due to the proprietors of copyright and neighbouring rights on the use of works, performances, phonograms, radio and television programs shall be negotiated in a contract between the proprietors of the rights and the users.

(2) Whenever use is negotiated by an organization conducting collective management of rights, the amount of compensation shall be set out in a contract between that organization and the users or their associations.

#### TRANSITIONAL AND CONCLUDING PROVISIONS

§ 6. (1) (*Amended SG. No. 28/2000*) This Act shall also apply to works, performances, phonograms, radio and television programs made or performed prior to the entry into force of this Act unless the respective protection periods have expired.

(2) Copyright acquired prior to the entry into force of this Act shall remain in force.

§ 7. The authors of literary texts which have been used without their consent in musical works pursuant to **Article 7 “b”** of the Copyright Act of 1951, may not prevent the further use of the musical work together with the text if it has already been made available to the public together with it.

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

(2) The property of the Copyright Agency shall be transferred to the Ministry of culture.

(3) The Council of Ministers shall determine the terms and procedures for the distribution of the property of the Agency among the organizations under [Article 40](#) of this Act.

§ 9. This Act hereby revokes:

1. The Copyright Act (promulgated, *Izvestia*, no. 92 of 1951, corrected, no. 10 of 1952, amended, no.55 of 1956, amended, *State Gazette*, no. 35 of 1972 and no.30 of 1990).

2. **Art. 270 through 278** of the Obligations and Contracts Act (promulgated, *State Gazette*, no. 275 of 1950, corrected, no. 2 of 1951, amended, no. 69 of 1951, no. 92 of 1952, no. 85 of 1963, no. 27 of 1973, no. 16 of 1977, no. 28 of 1988, no. 30 of 1990 and no. 12 of 1993).

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

§ 11. The implementation of this Act is assigned to the Council of Ministers.

This Act was adopted by the 36th National Assembly on June 16, 1993 and was sealed with the State Seal.

Chairman of the National Assembly: Alexander Yordanov

#### ACT ON THE AMENDMENTS AND SUPPLEMENTS TO THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT

*Promulgated SG No. 56 1993, Amended SG Nos. 63/1994: 10/1998, 28/2000*

#### TRANSITIONAL AND CONCLUDING PROVISIONS

§ 51.(1) This Act shall also apply to the works and objects under [Article 72](#), made or performed prior to the entry into force of this Act, unless the protection periods stipulated therein have expired.

(2) The right-holders may not have any claims on their works being used at a time when the protection period for these works had expired under the then effective legislation.

§ 52. This Act hereby revokes [§ 4](#) of the concluding provision of the Act on the Amendments and Supplements to the Copyright and Neighboring Rights Act (*SG No. 10/1998*).

§ 53. Throughout this Act, the words “the Ministry responsible for culture“ shall be replaced by “the Ministry of Culture“.

§ 54. (1) This Act shall enter into force one month after being promulgated in the “*State Gazette*“, with the exception of [§ 8](#) which shall become effective as of January 1, 2001.

(2) The Council of Ministers shall enact a Regulation on [§ 8](#) within six months from the date of entry into force of this Act, which shall apply as of January 1, 2001.

This Act was adopted by the 38<sup>th</sup> National Assembly on March 22, 2000, and was sealed with the official seal of the National Assembly.

**Chairman of the National Assembly: Yordan Sokolov**