



**Law No. 96—564 of July 25, 1996 on the Protection of Intellectual Works
and the Rights of Authors, Performers and Phonogram
and Videogram Producers***

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PART I
PROTECTION OF INTELLECTUAL WORKS

Title I
General Provisions and Scope

1. The term “intellectual work” means any creation or production in the literary, artistic or scientific field, regardless of its mode of expression, as specified in Article 6.

2. The authors of intellectual works shall enjoy in relation to those works, by virtue of the mere fact of the creation thereof and without any formality, an incorporeal property right that is exclusive and enforceable against all persons.

Such a right, called “copyright,” embodies all the attributes of intellectual, moral and economic character that are specified and protected as provided in this Law.

3. Intellectual works produced abroad by Ivorian nationals, whether published or not, qualify for that protection on the same grounds as those produced in Côte d’Ivoire.

4. The works of foreign nationals that are first published in Côte d’Ivoire are eligible under this Law for the same protection as the works of Ivorian nationals.

Notwithstanding the rules of protection laid down in international conventions concluded between Côte d’Ivoire and other countries, the works of foreign nationals that have not been first published in Côte d’Ivoire shall likewise enjoy protection under this Law during the period accorded to foreign works, on condition that the country of which the original owner of the copyright is a national grants equivalent protection to the works of Ivorian nationals.

Works that do not qualify for the aforementioned protection shall be subject to the charging of royalties by the professional body of authors referred to in Article 62 below.

Royalties shall be paid into a special fund managed by the said body and shall be used for cultural and social purposes for the benefit of Ivorian authors.

5. The work shall be considered created, regardless of any disclosure, by virtue of the mere fact of its conception, production or existence in a finished or unfinished state and the status of the author.

Title II
Works and Authors

CHAPTER I
PROTECTED WORKS

6. The protection of the rights of authors applies to all original works, regardless of the genre, merit, purpose or manner or form of expression thereof, including:



1. written works (books, pamphlets, articles and other literary, artistic or scientific writings);
2. oral works (tales and legends, lectures, addresses, sermons and other works of the same nature);
3. works created for the stage or for broadcasting (sound or visual), including choreographic and mimed works as well as dramatic and dramatico-musical works;
4. musical compositions with or without words;
5. audiovisual works, an audiovisual work being defined as any work consisting of animated sequences of images, with or without sound;
6. pictorial works, drawings, lithographs, etchings, woodcuts and other works of the same kind;
7. sculptures of all kinds;
8. works of architecture, including the plans and models as well as the construction itself;
9. tapestries and objects created by handicraft and applied art, including the sketches or models as well as the work itself;
10. maps and also graphic and three-dimensional drawings and reproductions of a scientific or technical nature;
11. photographic works of artistic or documentary character, to which, for the purposes of this Law, works expressed by a process analogous to photography are assimilated;
12. works of folklore.

7. The following shall be protected as original works, without prejudice to the rights of the author of the original work:

1. translations, adaptations and arrangements of literary, musical, artistic or scientific works;
2. collections of literary or artistic works such as encyclopedias or anthologies that constitute intellectual creations by reason of the choice or arrangement of their subject matter;
3. works derived from folklore.

8. Folklore is an original component of the national heritage. For the purposes of this Law:

— “folklore” means all literary and artistic productions handed down from generation to generation and forming part of the traditional Ivorian cultural heritage, the authors of the said productions being unknown but affording every reason to believe that they are nationals of Côte d’Ivoire;



— “work derived from folklore” means any work composed of elements borrowed from the Ivorian traditional cultural heritage;

— the right of exploitation of folklore shall be administered by the body of authors referred to in Article 62. The public performance of folklore and its reproduction with a view to profit-making exploitation require authorization by that body.

Authorization shall be granted against payment of a royalty, the proceeds from which shall be used for cultural and social purposes for the benefit of Ivorian authors.

The amount of the royalty shall be set according to the conditions customary for protected works in the same category.

9. The title of an intellectual work shall enjoy the same protection as the work itself in so far as it is original in character.

No one may use that title, even if the work is no longer protected under Articles 24 and 44, to individualize a work of the same genre if such use is liable to cause confusion in the mind of the public.

10. For the purposes of this Law:

— “original work” means a work which, by its characteristic features and form, or by its form alone, allows its author to be identified;

— “derived work” means a work based on preexisting elements;

— “work of joint authorship” means a work created as a result of collaborative work on the part of two or more authors, whether or not the individual contributions of those authors are identifiable;

— “composite work” means a new work in which a preexisting work is incorporated without the collaboration of the author of the latter;

— “collective work” means a work created on the initiative of a person, whether natural person or legal entity, who edits, publishes and discloses it under his direction and name, in which the contributions of the various authors participating in its production so merge in the whole work for which they are made that it is not possible to attribute to each of those authors a separate right in the said whole work once compiled;

— “posthumous work” means a work made accessible to the public after its author’s death.

CHAPTER II AUTHORS OF WORKS

11. In the absence of proof to the contrary, the person or persons under whose names or pseudonyms a work is disclosed shall be considered the author or authors thereof.



12. A work of joint authorship shall belong jointly to the co-authors. The co-authors shall exercise their rights by common consent. In the event of disagreement, the competent court shall decide.

Where the participation of each of the co-authors belongs to a different genre, each co-author may, unless otherwise agreed, exploit his personal contribution separately, but without thereby prejudicing the exploitation of the joint work.

13. The authors of pseudonymous or anonymous works shall enjoy in those works the rights provided for in Article 2.

They shall be represented in the exercise of those rights by the original editor or publisher until such time as they reveal their identity and declare their authorship.

The declaration provided for in the foregoing paragraph may be made by testamentary means, provided that any rights acquired previously by third parties shall be reserved.

The provisions of the second and third paragraphs above shall not be applicable where the pseudonym adopted by the author leaves his identity in no doubt.

14. A composite work shall be the property of the author who made it, subject to the rights of the author of the preexisting work.

15. In the absence of proof to the contrary, a collective work shall be the property of the natural person or legal entity under whose name it was disclosed. That person shall be deemed invested with the copyright.

CHAPTER III SPECIAL PROVISIONS

Section 1

Works Created Under an Employment Contract or Commissioned Works

16. The existence or conclusion of a contract to make a work or of an employment contract by the author of an intellectual work shall not imply any derogation from the enjoyment of the right accorded by Article 2.

1. In the case of a work produced by an author employed under a contract to make a work or under an employment contract, the copyright shall belong to the author, unless otherwise agreed.

2. In the case of a commissioned three-dimensional work or portrait executed by painting, photography or otherwise, the author thereof shall not have the right to exploit the work or portrait, by any means, without the express authorization of the person who commissioned the work. In the case of manifest abuse on the part of the owner preventing the exercise of the right of disclosure, the competent court may, at the request of the author, his successors in title or the department responsible for cultural affairs, order any appropriate measure.



Section 2
Audiovisual Works

17. The natural persons who bring about the intellectual creation of an audiovisual work shall be deemed the authors thereof.

In the absence of proof to the contrary, the authors of the scenario, the adaptation, the dialogue, the musical compositions with or without words specially created for the work and the director of the work are the co-authors of an audiovisual work.

The author of a protected preexisting work from which an audiovisual work is derived is a co-author of the new work.

18. The producer of an audiovisual work is the person, whether natural person or legal entity, who takes the initiative and responsibility for the making of the said work.

The status of producer does not preclude the status of author or co-author within the meaning of Article 17.

Relations between the producer and co-authors of the audiovisual work shall be governed by a written contract which, in the absence of a clause to the contrary, implies assignment to the producer, except by the authors of musical compositions with or without words, of the audiovisual exploitation rights in the said work, to the exclusion of the other rights.

19. The producer shall enjoy the right to arrange for the completion of a contribution left uncompleted by a co-author on account of either refusal or *force majeure*. The co-author shall nevertheless, within the limits of Article 3 and the second paragraph of Article 4, enjoy the rights in the part that he did contribute to the making of the audiovisual work.

20. The director of audiovisual work is the person, whether natural person or legal entity, who assumes the direction of and artistic responsibility for the transformation into images and sound and the cutting of the said work and also its final editing.

21. The audiovisual work shall be considered completed when the final version has been established by common consent between the director or in certain circumstances the other co-authors on the one hand and the producer on the other.

It is prohibited to destroy the master copy of the said version.

Any modification of that version by addition, removal or alteration of any element thereof shall require the agreement of the persons mentioned in the first paragraph above.

Any transposition of the audiovisual work to another medium with a view to other exploitation shall require the prior agreement of the director.

The specific rights accruing to the authors defined in Article 23 of this Law may not be exercised by those authors otherwise than in relation to the completed audiovisual work.



Section 3

Works Broadcast by Radio or Television

22. The authors of a work broadcast by radio or television are the natural persons who carry out the intellectual creation of the said work. The provisions of the last paragraph of Article 17 and of Article 19 shall be applicable to works broadcast by radio or television.

Title III

Scope and Term of Copyright

CHAPTER I

SCOPE OF AUTHORS' RIGHTS

23. The intellectual and moral attributes of copyright shall consist, for the author alone, of the right:

— to disclose his work, to determine the manner of disclosure, subject to the provisions of Article 18 on audiovisual works, and to lay down the conditions governing such disclosure;

— to claim authorship and to defend the integrity of the work. The name of the author shall be mentioned every time the work is made accessible to the public.

The author has the right to object to any distortion, mutilation or other alteration of his work, or to any action in relation to the said work that is prejudicial to his honor or reputation.

The rights referred to in the foregoing paragraphs shall belong to the author in person. They shall be perpetual, inalienable and imprescriptible.

On the death of the author, the said rights shall be transferable to his heirs or legatees.

These rights may be exercised even after the exclusive right of exploitation provided for in Article 25 below has expired.

24. In the event of manifest abuse in the use or non-use of the right of disclosure on the part of representatives of the deceased author, the courts of first-instance or sections thereof, at the instigation of any interested party, notably the department responsible for cultural affairs, may order any appropriate measure. The same shall apply in the event of disagreement between the said representatives, where there is no known successor in title or in the case of a vacant or escheated estate.

25. The economic attributes of copyright consist of the exclusive right of the author to authorize the exploitation of his work in any form and to derive pecuniary benefit therefrom.

The right of exploitation comprises the right of performance, the right of reproduction and the resale royalty right.

Performance means the direct communication of the work to the public by any process, including:



1. recitation and public presentation or execution of the work by any means or process;
2. public transmission by any means of the recitation, presentation or execution of the work;
3. broadcasting of the work or communication of the work to the public by any other wireless means of disseminating signs, sound or images;
4. communication of the broadcast work to the public by wire or wireless means where that communication is effected by an organization other than the original one;
5. communication of the broadcast work to the public by loudspeaker or by any other instrument for the transmission of signs, sound or images, regardless of the place in which the communication is received.

The emission of a work towards a satellite shall be treated as performance.

Reproduction means the fixing of the work on a material medium by any process that permits direct communication to the public, including:

1. reproduction of the work in any material form, including cinema film or phonograms or any graphic or photographic process;
2. bringing the work so reproduced into circulation, and in particular public showing or playing of the reproduction by film or phonogram;
3. translation, adaptation, arrangement or other transformation of the work.

For the purposes of this Article, the work includes the work in its original form or in a form derived from the original.

26. Any author of graphic and three-dimensional works has a right, known as a resale royalty right, the procedures of which are specified in Article 44 below, in relation to all successive sales or transfers of the said works.

27. Unless otherwise provided in this Law, exploitation of the work by another person may not take place without the formal, written prior authorization of the author or his licensees or successors in title.

Any performance or complete or even partial reproduction carried out without the authorization provided for in the foregoing Article is unlawful.

The same applies to any translation, adaptation, arrangement, transformation, reproduction or imitation by any process or means or artistic method.

Such an act shall entitle the author of the work to compensation.

28. Unless otherwise provided:

1. authorization to broadcast a work by electromagnetic waves does not include other forms of dissemination except where they are carried out simultaneously and completely by



the organization to which the authorization has been given, and without any enlargement of the geographical area provided for by contract.

2. authorization to broadcast the work does not imply authorization to communicate the broadcast in a place accessible to the public.

3. authorization to broadcast a work by electromagnetic waves shall not include emission towards a satellite in such a way that the work may be received through the agency of other organizations, except where the authors or their successors in title have authorized those organizations by contract to communicate the work to the public, in which case the emitting organization is exempted from the payment of any remuneration.

The provisions of this Article are applicable also to the producers of phonograms and videograms.

29. Notwithstanding the assignment of his right of exploitation, the author shall, even after publication of his work, enjoy a right of withdrawal in his relations with the assignee. He may only exercise that right, however, if he gives the assignee prior indemnification for any prejudice that withdrawal might cause him.

30. The author's claims deriving from his economic rights are privileged claims. They rank immediately after claims of wages payable to domestic staff, and shall subsist in spite of bankruptcy and judicial liquidation.

CHAPTER II

LIMITATION OF THE RIGHTS OF AUTHORS

31. When the work has been lawfully made accessible to the public, the author may not prohibit the following in relation to it:

— private performances carried out exclusively in a family circle, provided that they do not generate any form of income;

— reproductions, translations and adaptations intended for strictly personal and private use, and not for collective use, with the exception of works of art;

— analyses, press reviews and short quotations justified by the critical, polemic, educational, scientific or informatory character of the work.

The same shall apply to the use of literary, artistic or scientific works for illustration in teaching through publication, radio or television broadcasting or sound or visual recordings, provided that such use is not improper and is devoid of any gainful intent.

Such quotations and uses shall be accompanied by a mention of the source, and the author's name where it appears in the source.

32. Literary works seen or heard in the course of a current event may, for informatory purposes, be reproduced in the form of short extracts and made available to the public in the



reporting of the said event by means of photography, audiovisual presentation or broadcasting or transmission by wire to the public.

33. Subject to the mention of the author's name and the source, provided that the reproduction or broadcasting rights therein have not been expressly reserved for informatory purposes, the following may be reproduced by the press or broadcast;

— topical articles of economic, political or religious debate published in newspapers or magazines or broadcast;

— speeches given at deliberating assemblies, at public hearings in the courts, at political meetings or in the course of official ceremonies.

34. Works of art, including works of architecture, permanently located in a public place may be reproduced and made available to the public by means of cinematography or television.

35. Unless otherwise provided, the authorization of radio or television broadcasting covers all sound or visual communications made free of charge by the broadcasting organization using its own technical and artistic facilities and on its own responsibility.

This authorization does not extend to communications made in places such as cafés, restaurants, hotels, cabarets, clubs, shops and stores, cultural centers and so-called exclusive clubs, for which prior authorization shall be sought in accordance with Article 27.

36. The broadcasting organization may make, for the purposes of its deferred broadcasts and using its own facilities, an ephemeral recording in one or more copies of any work that it is authorized to broadcast. Those copies may not be transferred, lent or hired.

They shall be destroyed within two months of being made, except where the owner of the production rights has expressly agreed to a longer period of preservation.

Preservation and destruction shall be under the responsibility of a commission set up within the professional body referred to in Article 62.

37. Without prejudice to the right of the author to be paid equitable remuneration, reproduction that has exceptional documentary character, and also copies of recordings that have cultural value, may be preserved in official archives.

CHAPTER III TRANSFER OF COPYRIGHT

38. The rights of authors are movable property. As such, they are transferable by succession and by donation to the author's successors in title. They are also transferable by the author himself or by his successors in title or heirs.

39. If there are neither heirs nor legatees, the rights shall revert to the State, which may assign them to the professional body of authors referred to in Article 62, and the proceeds from the royalties paid for the said rights shall be used for cultural and social purposes for the

benefit of Ivorian authors, without prejudice to the rights of creditors and the fulfillment of any assignment contract that may have been concluded by the author or his successors in title.

40. The right of exploitation may be assigned in its entirety or in part, for a consideration or free of charge, to a natural person or legal entity. However,

1. the assignment shall be evidenced in writing, on pain of invalidity;
2. assignment by the author of any one of the rights referred to in Article 25 does not imply assignment of any other rights;
3. where a contract effects the total assignment of one of those rights, the scope of the said assignment is confined to the forms of exploitation provided for in the contract;
4. the person to whom the right of exploitation of a work has been assigned may not, unless otherwise agreed, transfer that right to a third party without the agreement of the owner of the said right;
5. the global assignment of future works is null and void.

41. The incorporeal property right defined in Article 2 is independent of the ownership of its physical embodiment. The person who acquires ownership of the said embodiment is not invested, by virtue of that acquisition, with any of the rights provided for in this Law, except in the cases covered by the provisions of Article 45(3); those rights shall belong to the author or to his successors in title in person.

In the event of manifest abuse on the part of the owner preventing the exercise of the right of disclosure, the court may order any appropriate measure.

42. The exploitation contract is an agreement of mixed character; it is governed by civil law with respect to the author and commercial law with respect to the other party if that party has the status of a trader.

The contract shall specify the scale of exploitation of the rights assigned with respect to the scope and the place and duration of the exploitation, and also the remuneration of the author or his successors in title, as provided in Article 43.

43. Assignment for a consideration shall include the grant to the author of a proportional share in revenue of any kind deriving from the sale or exploitation of his work.

However, the remuneration of the author may be calculated as a lump sum where calculation of a proportional share is impracticable or where the nature and conditions of exploitation make application of the rule of proportional remuneration too costly or impossible.

44. The authors of graphic and three-dimensional works shall have, notwithstanding any assignment of the original work, an inalienable right to a share in the proceeds from any sale of that work by auction or through a dealer, regardless of the procedures involved in the operation conducted by the latter.



After the death of the author, this resale royalty right shall inure to the benefit of his heirs or legatees, according to the provisions of Article 45(2).

CHAPTER IV TERM OF ECONOMIC RIGHTS

45.—(1) The economic rights of the author shall subsist for his lifetime. On his death, they shall subsist for the remainder of the current calendar year and the 99 years thereafter;

(2) In the case of works of joint authorship, the economic rights shall subsist for the benefit of all those entitled to them during the calendar year of the death of the last surviving co-author and for 99 years thereafter.

(3) The author's economic rights shall subsist for 99 years following the end of the calendar year in the course of which the work was lawfully made available to the public:

(a) in the case of photographic or audiovisual works or works of applied art;

(b) in the case of anonymous or pseudonymous works, except where the pseudonym leaves the civil identity of the author in no doubt, or where the author reveals his identity before that term expires, in which case the term of the exploitation rights shall be calculated as provided in paragraph (1) above;

(c) in the case of posthumous works, provided that the said rights shall belong to the author's successors in title where the work is disclosed within the period specified in paragraph (1); where the work is disclosed after that period has expired, the rights shall belong to the owners of the manuscripts or originals in which the work is embodied if they publish them or have them published.

Posthumous works shall be published separately except where they constitute only a fragment of a work published previously. They may not be joined to previously published works by the same author unless the said author's successors in title still enjoy the exploitation rights therein.

CHAPTER V PERFORMANCE AND PUBLISHING CONTRACTS

Section 1 *Performance Contracts*

46. A performance contract is an agreement whereby the author of an intellectual work or his successors in title authorize an entertainment organizer to present the said work on conditions that they shall determine.

A general performance contract is an agreement by which the professional body of authors referred to in Article 62 grants an entertainment organizer the right to present, during



the term of the contract, current or future works in the repertoire of the said body on conditions that the author or his successors in title shall determine.

In the case provided for in the foregoing paragraph, exceptions may be made to the provisions of Article 40(5).

47. “Entertainment organizer” means any person, whether natural person or legal entity, who either occasionally or systematically presents or performs protected works within the meaning of this Law, or causes them to be presented or performed, by any means, in an establishment open to the public.

48. An entertainment organizer who presents or performs protected works within the meaning of this Law, or causes them to be presented or performed, is obliged to secure the prior authorization provided for in Article 27 and to pay the corresponding royalties. The performance contract shall be concluded for a limited term or for a specified number of communications to the public. Unless exclusive rights are expressly stipulated, it does not confer any exploitation monopoly on the entertainment organizer.

The entertainment organizer shall ensure that the presentation or performance takes place under technical conditions that guarantee respect for the author’s intellectual and moral rights.

The validity of the exclusive rights accorded by a dramatic author may not exceed five years. Any interruption of performances for two consecutive years shall terminate the contract as of right.

49. The entertainment organizer may not transfer the benefits of his contract without the formal, written consent of the author or his representative.

The entertainment organizer is obliged to submit to the author, to his successors in title or to the professional body of authors referred to in Article 62 the exact program of public presentations or performances, to provide them with a reasoned statement of his takings, and to pay them the amount of the royalties provided for at the intervals specified.

Section 2 *Publishing Contracts*

50. A publishing contract is a written agreement whereby the author of the work or his successors in title assign to a natural person or legal entity called the publisher, on specified conditions and for a specified term, the right to manufacture or cause to be manufactured a specified number of copies of the work, the latter being responsible for the publication and dissemination thereof.

51. The publishing contract shall specify the manner and mode of expression of the publication and the procedure according to which it will take place, and where appropriate also the termination clauses.

It shall state the minimum number of copies constituting the first print-run, except where provision is made for minimum royalties guaranteed by the publisher.

It shall provide for payment to the author or his successors in title of remuneration proportional to the proceeds from exploitation of the work, except in the case of the lump-sum remuneration provided for in the second paragraph of Article 43(2), and in the case of newspaper and magazine publication.

52. The author is obliged:

— to assure the publisher of undisturbed and, unless otherwise agreed, exclusive exercise of the rights assigned;

— to ensure respect for those rights and to defend them against any violations that might be committed;

— to allow the publisher to discharge his obligations, and in particular to hand over to him, within the period specified in the contract, the material to be published in a form that makes normal production possible.

The material to be published shall remain the property of the author.

53. The publisher is obliged:

— to carry out or effect production according to the conditions, in the form and according to the modes of expression provided for in the contract;

— to make no amendment to the work without the author's written authorization;

— unless otherwise agreed, to show the name, pseudonym or mark of the author on each of the copies;

— unless specially agreed, to complete the edition within a period established by practice within the profession;

— to ensure that the work is permanently and continuously exploited and marketed in keeping with practice within the profession;

— to return the original subject matter of the publishing contract to the author after the completion of production.

54. The publisher is also obliged to submit accounts to the author and to provide him with all evidence that will establish the accuracy of his accounts.

The author may, in the absence of a special procedure laid down in the contract, demand that the publisher produce a statement at least once a year of the number of copies produced in the course of the reporting period, with details of the date and size of print-runs and also of the number of copies in stock.

Unless otherwise dictated by practice or agreed, the said statement shall also mention the number of copies sold by the publisher, the number destroyed or rendered unusable by



unforeseen circumstances or force majeure, and the amount of the royalties payable or paid to the author.

55. Neither bankruptcy or receivership on the part of the publisher shall cause the contract to be terminated.

Where the receiver takes charge of the operation of the business as provided by law, he shall be under all the obligations of the publisher.

In the event of sale of the business, the acquirer shall likewise be under the same obligations as the seller.

Where the receiver does not take charge of the operation of the business and where no disposal of the said business has occurred within a year following the judgment declaring it bankrupt, the publishing contract may be terminated at the request of the author.

The receiver may not undertake the remaindering or other disposal of copies manufactured until at least 15 days have elapsed after he has notified the author of his intention by registered mail with a request for advice of receipt.

The author shall have an option to buy all or some of the copies. In the absence of agreement, the purchase price shall be set by expert opinion.

56. The publisher may not transfer the benefit of the publishing contract to third parties independently of his own business, either free of charge or for a consideration or in the form of corporate stock, without first having obtained the author's permission.

In the event of disposal of the business, if such disposal is liable to be seriously detrimental to the material or moral interests of the author, the latter is entitled to be indemnified, even in the form of termination of the contract.

Where the publishing business was previously operated as a company or was in co-ownership, the award of the business to one of the former associates or one of the former co-owners as a result of liquidation or division may not in any event be considered an assignment.

57. The publishing contract shall be terminated, independently of the cases provided for in ordinary legislation or in the foregoing Articles, where the publisher proceeds to destroy all the copies.

Termination shall occur as of right when, on being called upon to do so and allowed a suitable period for the purpose by the author, the publisher fails to carry out the publication of the work or, if it is out of print, fails to reprint it.

An edition shall be considered out of print if two requests sent to the publisher for the delivery of copies are not met within six months.

In the event of the author's death, if the work is unfinished, the contract shall be terminated with respect to the unfinished part of the work, unless otherwise agreed between the publisher and the author's successors in title.



58. It shall be lawful for the author to allow the publisher a preferential right for the publication of his future works, provided that they relate to a particular genre. That right is limited, for each genre, to five new works as from the signature date of the publishing contract concluded for the first work, or to the production achieved in the space of five years as from the same date.

59. A contract for publication at the author's expense does not constitute a publishing contract within the meaning of Article 50.

Under such a contract, the author or his successors in title pay the publisher an agreed amount of remuneration, in exchange for which the latter undertakes to manufacture copies of the work in the amount, form and modes of expression specified in the contract, and to carry out the publication and distribution thereof.

Such a contract constitutes a work contract governed by convention, custom and the provisions of Articles 1 787 *et seq.* of the Civil Code.

60. A contract known as a shared-expense contract does not constitute a publishing contract within the meaning of Article 50.

Under such a contract, the author or his successors in title entrust a publisher with the production in quantity, at their expense, of copies of the work in the form and modes of expression specified in the contract, and to carry out the publication and distribution thereof, subject to the mutual undertaking to share the profits and losses of exploitation in the agreed proportion.

Such a contract constitutes a partnership contract, it is governed by convention and custom.

Title IV Public Domain

61. When the terms of protection laid down by this Law expire, the exploitation rights in works that have fallen into the public domain shall be administered by the professional body of authors referred to in Article 62.

The public performance and reproduction of such works shall require authorization by the said body. That authorization shall, in the case of an event held for profit-making purposes, be granted against payment of remuneration calculated according to the proceeds from the exploitation.

The amount of the remuneration shall be equal to half of that payable for works in the same category of the private domain according to current practice, and the provisions of Article 46 shall apply.

The proceeds from that remuneration shall be used for cultural and social purposes for the benefit of Ivorian authors on conditions that shall be laid down by decree.

Title V Exercise of Copyright

62. The exploitation and protection of the rights of authors provided for in this Law shall be entrusted to a body of authors and composers, the responsibilities, organization and operation of which shall be laid down by decree.

That body, to the exclusion of any other natural person or legal entity, shall be qualified to act as intermediary for the issue of authorizations and the collection of related royalties in dealings between the author or his heirs and the users of literary or artistic works.

The body shall manage on the national territory the interests of the various foreign authors' societies under such conventions or agreements as it may enter into with them.

It is placed under the authority of the department responsible for cultural affairs.

Title VI Procedure and Sanctions

63. The professional body of authors is authorized to engage in legal proceedings for the defense of the interests entrusted to it.

It is obliged to intervene in proceedings that have been brought directly by the author himself or his successors in title.

64. Any violation of any of the moral and economic rights provided for in this Law is punishable according to the provisions of the Criminal Code relating to artistic or literary property.

65. At the request of any author of a work protected by this Law, his successors in title or the professional body of authors referred to in Article 62, the officers of the judicial police and/or any sworn agent shall be bound to seize copies constituting an unlawful reproduction of that work; the president of the court of first instance or of one of its individual sections may order the following, against security where appropriate:

— the seizure in any place, even outside the times specified in the Civil Procedure Code, of copies of an unlawfully reproduced work that have been or are being manufactured;

— the seizure of the proceeds from any reproduction or communication to the public that has taken place unlawfully;

— the suspension of any production, presentation or public performance in progress or announced that constitutes an infringement or an act preparatory to infringement;

— any other measures that may be judged necessary.

The foregoing provisions are applicable in the case of unauthorized exploitation of folklore or of a work that has fallen into the public domain.



66. The distrainee or garnishee may apply to the magistrate who ordered the seizure to declare the lifting of the said seizure or to exact security for the effects thereof, or again to authorize the resumption of production or presentation or public performance under the authority of an administrator appointed to be the custodian, for the benefit of whomsoever it may concern, of the proceeds from such production or exploitation.

67. If the request of the distrainee or garnishee is granted, the latter may be ordered to deposit a sum to guarantee any damages that may be claimed by the author.

68. The measures ordered under Article 65 shall be lifted as of right in the event of a non-suit or discharge ordered by a correctional court.

69. In the absence of criminal prosecution, the said measures shall likewise be lifted as of right where the plaintiff has failed to refer the case to the competent civil court within 30 days of the seizure of the works.

70. Without prejudice to the investigative rights reserved to police officers, the professional body of authors shall be authorized to designate sworn representatives authorized to verify the enforcement of the provisions of this Law on the national territory, and to report infringements.

71. Authorities of all kinds, and in particular the police force and military constabulary, are bound to give their assistance and where appropriate their protection to the representatives of the professional body of authors at the latter's request.

The competent authorities shall not grant entertainment organizers any license or other permit before the latter have produced the authorization issued by the professional body of authors.

72. A person, whether natural person or legal entity, shall be considered responsible for unlawful reproduction or communication to the public where he has allowed the reproduction or communication to the public in his establishment, without the above authorization, of works protected under this Law jointly with any other person who, whether acting on his authority or not, actually committed the infringement.

73. Any person exploiting a work of folklore or a work that has fallen into the public domain who has failed to obtain the prior authorization of the professional body of authors shall be liable to the penalties provided for third-class offenses.

74. In the event of an infringement of the provisions of Article 44, the acquirer, the seller and the person responsible for conducting the sale by public auction may be pronounced jointly liable for the payment of damages to the beneficiaries of the resale royalty right.



PART II
RIGHTS OF PERFORMERS AND PRODUCERS OF
PHONOGRAMS AND VIDEOGRAMS

Title I
Audiovisual Production Contracts

75. The contract that binds the producer to the authors of an audiovisual work other than the composer of the music with or without words shall, unless otherwise provided and without prejudice to the rights accorded to the author by the provisions of Title III of Part I of this Law on economic rights, constitute assignment to the producer of the exclusive rights in the exploitation of the audiovisual work.

The audiovisual production contract shall not constitute assignment to the producer of the graphic and stage rights in the work.

The author shall assure the producer of undisturbed exercise of the rights assigned.

76. The producer is obliged to engage in exploitation of the audiovisual work that is in keeping with the usual practice within the profession.

At least once a year, the producer shall provide the author and co-authors with a statement of the proceeds from exploitation of the work according to each mode of exploitation.

At their request he shall submit to them any evidentiary material that will establish the accuracy of the accounts, such as copies of the contracts by which he assigns all or part of the rights at his disposal to third parties.

77. In the case of a commissioned work used for advertising, the contract between the producer and author shall, unless otherwise provided, constitute assignment to the producer of the exploitation rights in the work, provided that the contract specifies separate remuneration payable for each mode of exploitation of the work according to various criteria, such as geographical area, duration of exploitation, the size of the print-run and the nature of the medium.

Title II
**Rights of Producers of Phonograms and Videograms
and Performers' Rights**

78. For the purposes of this Law,

(a) "copy" means any medium embodying sounds and/or images that is made directly or indirectly from a phonogram or videogram and incorporates all or part of the sounds fixed on that phonogram or of the sounds and/or images fixed on that videogram;

(b) "fixation" means the incorporation of sounds, images or sounds and images in a physical medium;



- (c) “phonogram” means any fixation exclusively of the sounds of a performance or of other sounds;
- (d) “videogram” means any fixation of a sequence of images, with or without incorporated sounds;
- (e) “phonogram producer” means the person, whether natural person or legal entity, who takes the initiative of and responsibility for the first fixing of a sound sequence;
- (f) “videogram producer” means the person, whether natural person or legal entity, who takes the initiative of and responsibility for the first fixing of an image sequence, with or without incorporated sound;
- (g) “publication” means the making available to the public of copies of a phonogram or videogram;
- (h) “distribution” or “making available to the public” means any act consisting in offering copies of a phonogram or videogram directly or indirectly to the public at large or to any part thereof;
- (i) “reproduction” means the making of one or more copies of a fixation or part thereof;
- (j) “performer” means, to the exclusion of the supporting performer, the person who presents, sings, recites, declaims, plays or in any other way performs a literary or artistic work or a variety or circus act or puppet show;
- (k) “supporting performer” means the performer regarded as such in professional practice (known in the cinematographic field as an extra);
- (l) “audiovisual communication enterprise” means an organization or company providing audiovisual communication services that holds a public service concession or has been declared or authorized;
- (m) “satellite” means any device located in extraterrestrial space that is capable of transmitting signals;
- (n) “broadcasting” means the dissemination by any telecommunication process of sounds, images, documents, data and messages of all kinds;
- (o) “digital audio recording apparatus” means any apparatus for recording sounds that makes use of digital processes, including the case in which such apparatus is incorporated in a multifunctional set;
- (p) “digital audio anticopying device” means a system incorporated in a digital audio recording apparatus which, if removed, bypassed or deactivated, disables the recording function of the apparatus, which systematically detects the codes introduced in digital audio recordings and which, on detecting such a code, automatically stops the recording function of the apparatus for at least 25 seconds.



79. The rights of phonogram and videogram producers and the rights of performers shall not encroach on the rights of authors. Consequently, no provision of this Title shall be interpreted in such a way as to limit the exercise of copyright by the owners thereof.

In the absence of a person capable of proving an interest in bringing action, the Minister responsible for culture may refer a case to the courts, notably if there is no known successor in title or in the case of a vacant or escheated estate.

80. The performer is entitled to respect for his name, his status and his performance.

This inalienable and imprescriptible right shall belong to him personally.

It is transferable to his heirs for the protection of the performance and of the deceased's memory.

81. The written authorization of the performer shall be required for the fixation, reproduction and communication to the public of his performance, and for any separate use of the sounds and images of the performance where both the sounds and the images thereof have been fixed.

This authorization and the remuneration to which it gives rise shall be governed by the provisions of the Criminal Code and by the interprofessional collective convention of the Republic of Côte d'Ivoire that relate to performers' fees.

82. Signature of the contract concluded between a performer and a producer for the making of an audiovisual work shall constitute authorization to fix and reproduce the performer's performance and communicate it to the public.

Such a contract shall provide for separate remuneration for each mode of exploitation of the work.

Where neither the contract nor a collective convention mentions remuneration for one or more modes of exploitation, the level of that remuneration shall be set by reference to the scales laid down in specific agreements concluded for each area of activity between the organizations of fee-earning employees and employers representing the profession.

Contracts concluded between a performer and a producer of an audiovisual work, or their licensees, prior to the enactment of this Law shall be subject to the foregoing provisions with respect to the modes of exploitation that they have precluded, and the corresponding remuneration shall not have the character of a fee. That right to remuneration shall lapse on the death of the performer.

83. The reproduction, marketing, exchange or rental or communication to the public of phonograms or videograms shall be subject to prior authorization by the producer.

84. The rights accorded to the producer of a videogram under the foregoing Article and the copyright and the performer's rights that he may have in the work fixed on the videogram may not be assigned separately.



85. Where a phonogram has been published for commercial purposes, the performer and the producer may not object to the following:

1. direct communication of the phonogram in a public place, provided that it is not used in a show;
2. broadcasting of the phonogram.

The use of published phonograms for commercial purposes, regardless of the place in which the phonograms were fixed, entitles the performers and producers to remuneration.

That remuneration shall be paid by the persons who use the published phonograms for commercial purposes in the circumstances mentioned in subparagraphs 1 and 2 of the first paragraph of this Article.

It shall be based on the proceeds from exploitation or, failing that, shall be calculated as a lump sum in the cases provided for in Article 43 of this Law.

It shall be distributed in equal shares between the performers on the one hand and the phonogram producers on the other.

Agreements relating specifically to each branch of activity among the approved professional bodies of producers or performers (responsible for distributing remuneration among entitled persons) and persons using phonograms in the circumstances mentioned in subparagraphs 1 and 2 of the first paragraph of this Article shall be concluded for the setting of the rate of remuneration and the manner of its payment.

The said agreements shall specify the procedures according to which persons using the phonograms in the same circumstances are to discharge their obligation to provide the approved professional bodies of producers or performers with the exact program of the uses made by them and all the evidentiary material required for the distribution of royalties.

The provisions of the said agreements may be made mandatory for all persons concerned under conditions specified by Council of Ministers decree.

In the absence of agreement within the six months following the entry into force of this Law, or if no agreement has been reached by the expiration of the previous accord or of the period of validity of the previous decree, the scale of remuneration and the procedure for its payment shall be laid down by the competent courts.

86. Reproduction of the programs and their marketing, rental or exchange, their broadcasting and their communication to the public in a place open to the public against payment of an admission charge shall be subject to prior authorization by the audiovisual communication company.

87. The provisions of this Law shall apply to the producers of phonograms and videograms regardless of the place of fixation and the nationality of the producers and performers.



88. The limitations provided for in Articles 31, 32 and 33 of this Law shall apply also to performers and phonogram and videogram producers.

89. The term of the economic rights that are the subject matter of Part II of this Law shall be 99 years following the first of January of the calendar year following that of the first communication to the public of the performance of the work, of the production or of the programs, even where the performances and the fixation occurred prior to the date of entry into force of this Law.

Title III **Remuneration for Private Copying of Commercial Phonograms and Videograms**

90. The authors and performers of works fixed on commercial phonograms or videograms, and the producers of those commercial phonograms or videograms, shall be entitled to remuneration for reproduction intended for strictly personal and private use and not for the collective uses of the said works provided for in Article 31 of this Law.

91. Remuneration for private copying as provided below shall be calculated as a lump sum. Like the phonograms and videograms, such copying shall be exempted from value-added tax.

92. The remuneration provided for in the foregoing Article shall be paid by the manufacturer or importer of the recording material suitable for the reproduction for private use of works fixed on phonograms or videograms at the time of the distribution of that material in Côte d'Ivoire.

The amount of the remuneration shall be determined by the type of material and the recording time that it allows.

93. The types of material, rates of remuneration and procedures for its payment shall be specified by Council of Ministers decree, provided that the remuneration may not be less than ten per cent of the price of the material.

94. The remuneration provided for in Article 90 shall be collected on behalf of the entitled persons by the professional body of authors or by any other approved professional bodies of producers or performers.

It shall be distributed among the entitled persons by the bodies mentioned in the foregoing paragraph according to the extent to which each work has been privately reproduced.

95. Half the remuneration for private copying of phonograms shall accrue to the authors, while a quarter shall accrue to the performers and a quarter to the producer.

Remuneration for private copying of videograms shall be payable in equal shares to the authors, performers and producers.

96. Remuneration for private copying shall be repayable where the recording material is acquired for their own use or production by:

1. audiovisual communication companies;
2. the producers of phonograms and videograms and the persons who carry out the reproduction of phonograms on behalf of phonogram producers;
3. persons, whether natural persons or legal entities, of whom a list shall be drawn up by the Minister responsible for culture, and who make use of recording material for the purpose of assisting persons with visual or auditory handicaps.

97. The manufacture, assembly, sale, exchange, hire or making available to the public in any way of any digital audio recording apparatus that does not have a digital audio anti-copying device shall be subject to prior authorization by the Minister responsible for culture.

The same authorization shall be required of any apparatus, process, device or service the purpose of which is to remove, bypass, deactivate and more generally make inoperative a digital audio anti-copying device or a device for limiting the possibility of copying or recopying.

A Council of Ministers decree shall lay down the rules exempting certain digital audio recording apparatus from the measures taken under the foregoing Article where they are intended exclusively for lawful professional purposes.

This Article and any provisions that may be enacted under the foregoing paragraphs shall not prevent the application of the provisions of Title III of Part II of this Law concerning recording material usable by means of digital processes.

Title IV Guarantees and Sanctions

98. In the event of dispute, until the opposite of the information given thereon is provided, the affixing on copies of commercial phonograms and videograms or their packaging of a notice consisting of the circled letter P symbol for phonograms and the circled letter C symbol for videograms shall be authentic. The relevant symbol shall be followed by a mention of the year of first publication, and the whole notice shall be so presented as to show clearly that the protection rights are reserved.

If the copies or their packaging do not permit the producer to be identified by means of his name, mark or any other appropriate designation, the notice shall include also the name of the owner of the producer's rights.

If the copies or their packaging do not permit the main performers to be identified, the notice shall include also the name of the person who, in the country in which fixation took place, holds the rights of those performers.

99. Approved professional bodies of producers or performers are entitled to engage in legal proceedings for the defense of the rights entrusted to them.



100.—(1) In addition to the sanctions provided for in Article 1 of Law No. 63-301 of June 28, 1963, on the repression of fraud, a sentence of imprisonment for a term of three months to two years and a fine of 100,000 to 5,000,000 francs, or only one of those sanctions, shall be imposed for any fixation, reproduction or communication or making available to the public, for a consideration or free of charge, or any broadcasting of a performance, phonogram, videogram or program made without the authorization of the performer, the phonogram or videogram producer or the audiovisual communication company, and for failure to pay the remuneration payable to the author, performer or phonogram or videogram producer for the private copying or communication to the public and broadcasting of phonograms.

(2) The sanctions provided for in Article 100(1) shall be imposed for:

- any violation of the provisions of Article 97;
- any importation or exportation of phonograms or videograms carried out without the authorization of the producer or performer.

In the event of a second or subsequent offense, the sanctions applicable shall be doubled.

(3) In addition to the sanctions provided for in Article 100(1) above, the court may do the following:

- order the closure of the establishment operated by the person responsible for the infringement, either permanently or for a period not exceeding five years;
- pronounce the confiscation of all or part of the revenue derived from the infringement, and that of all infringing or unlawfully reproduced phonograms, videograms, objects and copies, and of the material specially installed for the commission of the offense;
- order, at the expense of the offending party, the display of the condemnatory judgment, and also its publication either in full or in the form of extracts in such journals as it may designate, provided that the cost of such publication may not exceed the maximum amount of the fine applicable.

The infringing objects shall be destroyed under judicial supervision.

The materials and receipts concerned by the confiscation shall be handed over to the injured party or to his successors in title.

101. At the request of any performer, phonogram or videogram producer or approved professional body of performers or producers, any officer of the judicial police and any sworn agent conforming to Law No. 63-301 of June 28, 1963, shall be obliged to seize any copy constituting an unlawful reproduction of the performance or phonogram or videogram concerned.

The President of the court of first instance or the section judge of the court may order, against security provided by the plaintiff where appropriate:



— the seizure in any place, notwithstanding the provisions of Article 280 of the Civil Procedure Code, of copies having been or being made of an unlawfully reproduced performance or phonogram or videogram;

— the seizure of the proceeds from any reproduction or communication to the public engaged in unlawfully;

— the suspension of any production or public performance, either in progress or announced, constituting an infringement or act preparatory to infringement;

— any other measures that may be considered necessary.

102. The distrainee or garnishee may request the magistrate who ordered it to pronounce the lifting of the seizure or to limit the effects thereof or again to authorize the resumption of production or broadcasting or communication to the public under the authority of an administrator appointed as custodian, acting for whomsoever it may concern, of the proceeds from the production or exploitation.

103. If the request of the distrainee or garnishee is granted, the deposit of a sum may be ordered, on the latter's responsibility, to guarantee against any damages that might be claimed by the producer or performer.

104. The measures ordered by the criminal court under Article 101 above shall be lifted as of right in the case of a non-suit or discharge.

105. In the absence of criminal prosecution, the said measures shall likewise be lifted as of right where the producer or performer or any other approved body fails to refer the case to the competent civil court within 30 days.

106. The approved performers' management body and producers' management body shall be authorized to appoint sworn representatives qualified to oversee the enforcement of the provisions of this Law on the national territory and to report infringements.

107. Authorities of all kinds, and especially the police force and military constabulary, are obliged, at the request of the representatives of an approved performers' management body or producers' management body, to afford them assistance and protection where appropriate.

108. Any person, whether natural person or legal entity, shall be considered responsible for an unlawful operation under Article 100 of this Law who has allowed such an operation to be carried out in his establishment, jointly with any other person who, either on his instructions, or not, has actually committed the infringement or helped commit it.

109. Council of Ministers decrees shall determine the conditions of implementation of this Law.

110. All earlier provisions contrary to those of this Law are repealed.

111. This Law shall be published in the Official Journal of the Republic of Côte d'Ivoire and implemented as a Law of the State.



* *French title:* Loi n° 96-564 relative à la protection des œuvres de l'esprit et aux droits des auteurs, des artistes-interprètes et des producteurs de phonogrammes et vidéogrammes.

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Note: Translation by the International Bureau of WIPO.

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