

**COPYRIGHT AND RELATED RIGHTS ACT!
of 30 March 1995
as last amended on 15 December 2006**

(as in force from 13 January 2007)

**Chapter I
GENERAL PROVISIONS**

**Article 1
Scope of the Act**

(1) This Act regulates:

- 1.the right of authors with respect to their works of literature, science and art (copyright);
- 2.the rights of performers, producers of phonograms, film producers, broadcasting organizations, publishers and makers of databases (related rights);
- 3.individual and collective management and enforcement of copyright and related rights.

(2) This Act integrates into the legal system of the Republic of Slovenia the provisions of the Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs (OJ L 122, 17 May 1991, p. 42, with amendments), Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 346, 27 November 1992, p. 61, with amendments), Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (OJ L 248, 6 October 1993, p. 15), Council Directive 93/98/EEC of 29 October 1993 harmonizing the term of protection of copyright and certain related rights (OJ L 290, 24 November 1993, p. 9, with amendments), Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 077, 27 March 1996, p. 20), Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, 22 June 2001, p. 10, with amendments), Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art (OJ L 272, 13 October 2001, p. 32) and Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (OJ L 195, 2 June 2004, p. 16).

I Published in the Official Gazette RS Nos. 21195, 9/01, 30/01,43/01, 17/06,44/06, 139/06 and 16/07. Unofficial translation.

Article 2 Public

The term "public", as used in this Act, shall mean a larger number of persons that are outside the usual circle of a family or the circle of personal acquaintances.

Article 3 Disclosure and publication

(1) Disclosure, as used in this Act, shall mean that a copyright work or subject matter of a related right has been made available to the public, with the consent of the right holder.

(2) Publication, as used in this Act, shall mean that sufficient quantity of already produced copies of a copyright work, or of a subject matter of a related right, was offered to the public or put into circulation, with the consent of the right holder.

Article 4 Relation between copyright and related rights

(1) Protection of related rights under this Act shall leave intact and shall in no way affect the protection of copyright.

(2) Provisions of this Act concerning elements of a copyright work, presumption of authorship, joint authors, authors of compound works, contents of economic rights and other rights of the author, relationship between copyright and ownership, limitations to copyright, term of copyright (beginning and effect of the running) and transfer of copyright (Sections I and II of Chapter III), shall apply mutatis mutandis to related rights, unless otherwise provided in Chapter V.

ChapterII
COPYRIGHT LAW

SectionI
Copyright works

Article 5
Protected works

(1) Copyright works are individual intellectual creations in the domain of literature, science, and art, which are expressed in any mode, unless otherwise provided by this Act.

(2) As copyright works are considered in particular:

1. spoken works such as speeches, sermons, and lectures;
2. written works such as belletristic works, articles, manuals, studies, and computer programs;
3. musical works with or without words;
4. theatrical or theatrico-musical works, and works of puppetry;
5. choreographic works and works of pantomime;

6. photographic works and works produced by a process similar to photography;
7. audiovisual works;
8. works of fine art such as paintings, graphic works, and sculptures;
9. works of architecture such as sketches, plans, and built structures in the field of architecture, urban planning, and landscape architecture;
10. works of applied art and industrial design; II. cartographic works;
12. presentations of a scientific, educational or technical nature (technical drawings, plans, sketches, tables, expert opinions, three-dimensional representations, and other works of similar nature).

Article6
Elementsof a copyrightwork

(1) Draft, component parts and the title of a work, which are in themselves individual intellectual creations, shall enjoy the same protection as the work itself.

(2) Regardless of the foregoing paragraph, it is not permitted to use for a title of a work such title as has already been used for the same kind of work, if such title creates or is likely to create confusion as to the source of the work.

Article 7
Transformations of copyrightworks

(1) Translations, adaptations, arrangements, changes and other transformations of a pre-existing work or of other material, which are individual intellectual creations, shall be deemed independent works.

(2) Rights of authors of pre-existing works must not be infringed by transformations mentioned in the foregoing paragraph.

Article 8
Collections

(1) Collections of works or of other material, such as encyclopaedias, anthologies, databases, collections of documents, etc., which, by virtue of selection, coordination or arrangement of their contents, are individual intellectual creations, shall be deemed independent works.

(2) Rights of authors of pre-existing works shall not be infringed by the inclusion of such works in a collection; by the inclusion in a collection, pre-existing material does not become a protected work.

(3) Databases as mentioned in paragraph 1 are collections of independent works, data or other materials in any form, arranged in a systematic or methodical way and individually accessible by electronic or other means.

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

Article 9
Non-protected creations

(1) Copyright protection shall not be afforded to:

1. ideas, principles, discoveries;
2. official legislative, administrative and judicial texts;
3. folk literary and artistic creations.

(2) Translations of texts mentioned under item 2 of the foregoing paragraph shall enjoy copyright protection, unless they are published as official texts.

Section III
The author

Article 10
A natural person

An author is a natural person who created the work.

Article 11 **Presumption of authorship**

(1) A person whose name, pseudonym or artist's mark appears in the customary manner on the work itself or is so indicated at the time of disclosure of the work, shall be presumed the author of the work, until proved otherwise.

(2) Where the author is not known according to the foregoing paragraph, the person who published the work is presumed to be entitled to exercise the author's rights. If this person is also not indicated, than the one who disclosed the work is so entitled.

(3) The foregoing paragraph shall cease to apply once the author becomes known. The person entitled under the foregoing paragraph, must transfer the benefits derived from the author's rights to the author, unless otherwise provided by contract.

Article 12 **Co-authors**

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

(2) Deciding on the use of such work belongs jointly to all co-authors, however, an individual co-author may not oppose to it unreasonably or in bad faith.

(3) Co-authors' shares shall be determined in proportion to the extent of their respective contributions to the creation of the work, unless they are set otherwise by their agreement.

Article 13 **Authors of compound works**

Provision of the foregoing article shall apply mutatis mutandis, when several authors combine their works for the purpose of exploitation in common.

Section III **Copyright**

Subsection I **General provisions**

Article 14
Origin of copyright

Copyright belongs to the author by the mere fact of creation of a work.

Article 15
Content of copyright

Copyright is an indivisible right to a work, from which emanate exclusive personal powers (moral rights), exclusive economic powers (economic rights), and other powers of the author (other rights of the author).

Subsection II
Moral rights

Article 16
Content

Moral rights shall protect the author with respect to his intellectual and personal ties to the work.

Article 17
Right to the first disclosure

The author shall have the exclusive right to determine whether, when, and how his work is to be disclosed for the first time.

Article 18
Right to recognition of authorship

(1) The author shall have the exclusive right to recognition of the authorship of his work.

(2) The author may determine whether his authorship is to be indicated at the time of disclosure of his work, and with what mark.

Article 19
Right to integrity of the work

The author shall have the exclusive right to prohibit any distortion or any other tampering with his work, as well as any use of his work, if such tampering or use could be prejudicial to his person.

Article 20
Right to withdrawal

- (1) The author has the exclusive right to revoke his assigned economic right from its holder, provided he has serious moral reasons for this, and on condition that he first reimburses the damage caused to the right holder by such revocation.
- (2) With the exercise of the right to withdrawal, the economic right of the holder is extinguished.
- (3) The author must adequately reimburse the holder. The holder must notify the author of the extent of damages suffered by him within three months of the receipt of the notice of revocation. If the holder fails to do so, the right to withdrawal takes effect on the expiration of this term.
- (4) If the author later wishes to assign the economic rights in his work again, he shall be required, within the period of ten years after exercising his right to withdrawal, to offer these rights first to the previous holder, under the same conditions that were originally stipulated.
- (5) The provisions of this article do not apply to computer programs, audiovisual works and databases.

Subsection III
Economic rights

Article 21
Content

- (1) Economic rights protect the author with respect to his economic interests by giving the author an exclusive right to authorize or to prohibit the use of his work or copies of his work.
- (2) Unless otherwise provided by this Act, the use of copyright work shall be lawful only if the author, in accordance with this Act, and under the conditions he has set, assigned the respective economic right.

Article 22
Economic rights

- (1) Use of the work in material form includes in particular the right of reproduction (Article 23).

(2) Use of the work in non-material form (communication to the public) includes in particular the following rights:

1. the right of public performance (Article 26);
2. the right of public transmission (Article 27);
3. the right of public communication by phonograms and videograms (Article 28);
4. the right of public presentation (Article 29);
5. the right of broadcasting (Article 30);
6. the right of rebroadcasting (Article 31);
7. the right of secondary broadcasting (Article 32);
8. the right of making available to the public (Article 32. a).

(3) Use of the work in a modified form includes in particular the following rights:

1. the right of transformation (Article 33);
2. the right of audiovisual adaptation (Article 104).

(4) Use of copies of a work includes the following rights:

1. the right of distribution (Article 24);
2. the rental right (Article 25).

Article 23 **Right of reproduction**

(1) The reproduction right is the exclusive right to fix the work in a material medium or in another copy directly or indirectly, temporarily or permanently, by any means and in any form, in whole or in part.

(2) The work is reproduced in particular by graphic reproduction, three-dimensional reproduction, building or carrying out of an architectural structure, photographic reproduction, sound or visual fixation, and by saving in electronic form.

Article 24 **Right of distribution**

(1) The right of distribution is the exclusive right to put into circulation the original or copies of the work by sale or other form of transfer of ownership, or to offer the same to the public with such intent.

(2) The right of distribution includes also the exclusive right to import copies of the work to a country with the intent of their further distribution, regardless whether such copies were legally made or not.

Article 25

Rental right

(1) The rental right is the exclusive right of making available for use the original or copies of a work, for a limited period of time, and for direct or indirect economic advantage.

(2) The foregoing paragraph shall not apply to the use of:

1. architectural structures;
2. originals or copies of works of applied art and industrial design;
3. originals or copies of works for the purpose of public communication;
4. works for on-the-spot reference;
5. works by persons acting within the scope of their employment, if such use is intended exclusively for the execution of their work related duties.

Article 26 Right of public performance

The right of public performance includes the exclusive rights:

- I. to recite a literary work in public by live delivery (right of public recitation);
2. to communicate a musical work to the public by live performance (right of public musical performance);
3. to communicate a work to the public by performing it on a stage (right of public stage presentation).

Article 27 Right of public transmission

The right of public transmission is the exclusive right to relay recitations, performances, or presentations of a work by a loudspeaker, screen or similar device beyond the original place or location.

Article 28 Right of public communication by means of phonograms or videograms

The right of public communication by means of phonograms and videograms is the exclusive right to communicate to the public the recitations, performances or stage presentations of a work, which are fixed in a phonogram or videogram.

Article 29 Right of public presentation

The right of public presentation is the exclusive right to communicate to the public, by technical means, an audiovisual work, a photographic work, a work of fine art, a work

of architecture, urban planning, applied art, industrial design, and cartography, or a presentations of scientific or technical nature.

Article 30
Right of
broadcasting

(1) The right of broadcasting is the exclusive right to communicate a work to the public by radio or television program signals, intended to the public, either by wireless means (including satellite), or by wire (including cable or microwave system).

(2) Communication to the public by satellite, within the meaning of the foregoing paragraph, exists when under the control and responsibility of a broadcasting organization program-carrying signals intended for the public are sent in an uninterrupted chain of communication to a satellite and down to the Earth.

(3) If the program-carrying signals are encrypted, communication to the public by satellite shall be deemed to have occurred, within the meaning of the foregoing paragraph, on condition that the means for decrypting are provided to the public by the broadcasting organization, or with its consent.

Article 31
Right of rebroadcasting

The right of rebroadcasting is the exclusive right to a simultaneous, unaltered, and unabridged communication to the public of a broadcast of a work:

1. when made by a broadcasting organization other than the initial one; or
2. when transmission is by cable or microwave system, and involves more than 100 cable connections, or if the work was initially broadcast from another state (cable retransmission).

Article 32
Right of secondary broadcasting

The right of secondary broadcasting is the exclusive right to communicate a broadcast work to the public by a loudspeaker, screen or similar device.

Article 32a
Right of making available

The right of making available is the exclusive right that a work, by wire or wireless means, is made available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them or that a work is transmitted to a member of the public based on an offer, intended for the public.

Article 33
Right of transformation

(1) The right of transformation is the exclusive right to translate, adapt for stage, musically arrange, alter, or otherwise transform a pre-existing work.

(2) The right mentioned in the foregoing paragraph applies also to cases where a pre-existing work is included or incorporated in a new work in unaltered form.

(3) The author of a pre-existing work retains the exclusive right to use his work in its transformed version, unless otherwise provided by this Act or by contract.

Subsection IV
Other rights of the author

Article 34
Right of access and of delivery

(1) The author has a right of access to the original or to a copy of his work, which is in the possession of another, if such access is necessary for the exercise of his right of reproduction or of transformation of the work, and does not adversely affect the legitimate interests of the possessor.

(2) The author may demand that the original of his work of fine art or of a photographic work be delivered to him for the purpose of exhibition in the Republic of Slovenia, if he can demonstrate a prevailing interest.

(3) Delivery of the original, according to the foregoing paragraph, may be conditioned upon posting of sufficient security or upon acquiring insurance coverage in the amount of market value of the original.

(4) The author must effect the access and exhibition with the least inconvenience to the possessor, and at his own expense. The author is strictly liable for any damage to the original or copy of the work.

Article
35 Resale
right

(1) Where an original of a work of fine art is resold, subsequent to the first transfer of the work by the author, the author has the right to be notified, as well as the right to a remuneration set out in this Article, provided that sellers, buyers or intermediaries are art market professionals, such as salesrooms, art galleries and auction houses.

(2) Obligations referred to in paragraph 1 shall be joint obligation of the seller, buyer and intermediary.

(3) "Originals of works of fine art" referred to in paragraph 1 shall mean original works of fine art, such as paintings, collages, drawings, engravings, prints, photographs, sculptures, tapestries, ceramics, glassware and the like, that are made by the artist himself, or are copies of such works considered to be originals. Copies of works shall be considered to be originals insofar as they have been made in limited numbers by the artist himself or under his authority, and have normally been numbered and signed by the artist.

(4) The resale right remuneration shall be set as a percentage of the retail price of the original (net of tax).

(5) The remuneration referred to in paragraph 4, which may not exceed EUR 12 500, shall be:

1. 4% for the price up to EUR 50 000;
- 2.3% for the portion of the price from EUR 50 000,01 to EUR 200 000; 3.1% for the portion of the price from EUR 200 000,01 to EUR 350 000;
- 0,5% for the portion of the price from EUR 350 000,01 to EUR 500 000;
4. 500 000;
5. 0,25% for the portion of the price exceeding EUR 500 000.

(6) Resale right may not be waived or assigned during the life of the author, and is not subject to execution.

Article 36 **Public lending right**

(1) Public lending right is the right to equitable remuneration according to Libraries Act_(Official Gazette of the RS No 87/0 1), when the original or a copy of a work is made available for use, for a limited period of time, without direct or indirect economic advantage, and if done through organisations performing such activity as public service.

(2) The foregoing paragraph shall not apply to the use of:

1. originals or copies of library material in the national library, school and academic libraries and special libraries;
2. architectural structures;
3. originals or copies of works of applied art and industrial design;
4. originals or copies of works for the purpose of public communication;
5. works, for on-the-spot reference, or for lending among organisations;

6. works, by persons acting within the scope of their employment, if such use is intended exclusively for the execution of their work related duties.

(3) Lending of originals or copies of computer programs and databases to the public is the exclusive right of their author.

Article 37 **Right to remuneration**

(1) The author has a right to equitable remuneration for making a sound or visual fixation, and for photocopying of his work, done within the scope of private or other internal use, under Article 50 of this Act.

(2) Remuneration under the foregoing paragraph with respect to sound or visual fixation shall be paid:

1. upon the first sale or importation of new appliances for sound or visual fixation, and

2. upon the first sale or importation of new blank audio or video fixation mediums.

(3) Remuneration under paragraph (1) of this Article, with respect to photocopying shall be paid:

1. upon the first sale or importation of new appliances for photocopying, and 2. upon photocopies made for sale, i.e. monthly on their probable number.

(4) For the purposes of this Act import shall be considered as the release of goods into free circulation in accordance with customs regulations of the European Community, and as each admission to the territory of the Republic of Slovenia from other ED Member States.

(5) For the purposes of this Article, the term photocopying includes other similar reproduction techniques, to the term appliances for sound or visual fixation other appliances, which enable getting the same effect, are assimilated.

(6) The right to remuneration under paragraph (1) of this Article may not be waived, assigned during the life of the author, and is not subject to execution.

Article 38 **Persons liable**

(1) Persons liable to pay remuneration under the foregoing Article are: manufacturers of appliances for sound or visual reproduction; manufacturers of appliances for

photocopying; manufacturers of blank audio or video fixation media; and holders of appliances who are offering photocopying services against payment. Jointly liable with manufacturers are importers of appliances and fixation media, unless such imports are intended for private and non-commercial use, as part of their personal luggage. (de minimis imports)

(2) Manufacturers mentioned in the foregoing paragraph are not liable to pay remuneration with respect to such appliances or fixation media which are made for exportation.

(3) The persons mentioned in paragraph (1) of this Article shall not be persons liable to pay remuneration for such appliances or fixation media which they have sold or imported for the first time for the purposes of:

1. commercial reproduction of authors' works for which the authorization of the right holders should be obtained, or
2. reproduction of authors' works for the benefit of disabled persons, when it is directly related to their disability.

(4) Persons mentioned in paragraph (1) of this Article shall, on request of a collecting society, at the end of each quarter submit information about the type and number of sold or imported appliances and media, mentioned in the foregoing Article, as well as such information about the photocopies sold, as is necessary for the calculation of the remuneration due. The collecting society may only use the information obtained for the purpose for which it was provided, and shall not disclose it to unauthorized persons.

Article 39 **Amount of remuneration**

(1) The amounts of remuneration for private and other internal reproduction which belong collectively to all persons entitled under this Act shall be set by the Government of the Republic of Slovenia.

(2) The amounts mentioned in the foregoing paragraph shall be set separately: for each appliance for sound fixation and each appliance for visual fixation; for each fixation appliance which due to its design, does not require separate mediums for its operation (double the amount); for each sound and visual fixation medium depending on the possible duration of the fixation; for each appliance for photocopying, depending on its capability (number of copies per minute), and its capacity to make colour copies (double the amount of black-and-white copying); as well as for each photocopy made for sale.

Subsection V **Relationship between copyright and ownership**

Article 40

General provision

The copyright is independent from and compatible with ownership or other property rights in any material object in which the copyright work is embodied, unless otherwise provided by law.

Article 41

Separateness of transfers

(1) The transfer of single economic rights or of other rights of the author with respect to his work, does not affect the ownership of the material object in which the work is embodied, unless otherwise provided by law or contract.

(2) The transfer of ownership in the material object in which the work is embodied does not affect single economic rights or other rights of the author with respect to his work, unless otherwise provided by law or contract.

Article 42

Community property of spouses

Only economic benefits deriving from the exploitation of copyright shall be a part of the community property of spouses.

Article 43

Exhaustion of the right of distribution

The right of distribution shall be exhausted within the European Union in respect of the original or copies of the work with the first sale or other transfer of ownership in the European Union of that object by the author or with his consent.

Article 44

Limitation to the right of transformation

(1) The owner of a work of architecture which has been executed shall be free to make reconstructions thereof.

(2) When implementing the provision of paragraph 1, the owner must respect the author's right to integrity of the work.

(3) Where a work of architecture has been awarded a prize in an open contest, the owner must obtain the consent of the author. The consent shall not involve disproportionate costs for the owner or considerably prolong the time of reconstruction.

Article 45

Protection of the original of the work

(1) The owner of an original of a work, who according to the circumstances of the case, should presume that the author has a justifiable interest in its preservation, shall not destroy such original, before offering it to the author at the cost of material.

(2) If the return is not possible, the owner shall allow the author to make a copy of the work, in an appropriate manner.

(3) In case of an architectural structure, the author has only the right to make photographs of the work and to demand the delivery of the reproductions of designs at his own expense.

Section IV **Limitations on copyright**

Article 46 **General provision**

Limitations on copyright are permissible in cases mentioned in this Section, provided that the extent of such exploitation of copyright works is limited by the intended purpose, is compatible with fair practice, does not conflict with normal use of the work, and does not unreasonably prejudice the legitimate interests of the author.

Subsection I **Legal licenses**

Article 47 **Teaching and periodicals**

(1) Without the assignment of a respective economic right, but on payment of equitable remuneration, it shall be lawful:

1. to reproduce in readers and textbooks intended for teaching, parts of works, as well as single works of photography, fine arts, architecture, applied art, industrial design and cartography, provided these are already disclosed works of a number of authors;
2. to reproduce in periodical publications articles on current topics of general interest published in other periodicals, unless the author expressly prohibited it.

(2) Provisions of the foregoing paragraph apply accordingly to public communication of the works mentioned therein.

(3) In cases stated in the foregoing paragraphs, the source and authorship of the work must be indicated, if the latter is indicated on the work used.

Article 47a **People with a disability**

Without the assignment of a respective economic right, but on payment of equitable remuneration, it shall be lawful to reproduce or distribute works for the benefit of people with a disability, provided that the work used is not available in the desired form, that the use is directly related to the disability and limited to its extent and is not for direct or indirect economic advantage.

Subsection II

Free use

Article 48

Right to information

(1) In order to have free access to information of public nature it shall be free:

1. to reproduce works, which are capable of being seen or heard as a part of a current event that is being reported on;
2. to prepare and reproduce abstracts of published newspaper and similar articles in the form of press reviews;
3. to reproduce public political speeches and public speeches made at hearings before state, religious or similar bodies;
4. to use the news of the day, which have the nature of a press release.

(2) Provisions of the foregoing paragraph apply *mutatis mutandis* to public communications of the works mentioned therein.

(3) In cases stated in the foregoing paragraphs, the source and authorship of the work must be indicated, if the latter is indicated on the work used.

Article 49

Teaching

(1) For the purpose of teaching it shall be permissible to:

1. publicly perform a disclosed work in the form of direct teaching;
2. publicly perform a disclosed work at school events with free admission, on condition that the performers receive no payment for their performance;
3. rebroadcast a radio or television school broadcast.

(2) In cases stated in the foregoing paragraph, the source and authorship of the work must be indicated, if the latter indicated on the work used.

Article 49a

Temporary reproduction

Temporary acts of reproduction which are transient or incidental and an integral and essential part of a technological process and whose sole purpose is to enable a transmission in a network between third parties by an intermediary, or a lawful use of a work, and which have no independent economic significance, shall be free.

Article 50 **Private and other internal reproduction**

(1) Subject to Article 37, the reproduction of a disclosed work shall be free, if made in no more than three copies and provided that the conditions of paragraphs 2 or 3 are fulfilled.

(2) A natural person shall be free to reproduce works:

1. on paper or any similar medium by the use of a photographic technique or by some other process having similar effects; and
2. on any other medium if this is done for private use, if the copies are not available to the public, and if this is not done for direct or indirect economic advantage.

(3) Publicly accessible archives and libraries, museums and educational or scientific establishments shall be free to reproduce, on any medium, works from their own copies for internal use, provided that this is not done for direct or indirect economic advantage.

(4) Reproduction according to the foregoing paragraphs shall not be permitted with respect to written works to the extent of the whole book, graphic editions of musical works, electronic databases and computer programs, and in the form of building of architectural structures, unless otherwise provided by this Act or by contract.

(5) Notwithstanding paragraph 4, it shall be permissible, under the conditions of paragraph I:

- I. to reproduce a written work to the extent of the whole book, if such work is out of print for a minimum of two years;
2. to reproduce a graphic edition of musical work by means of handwritten transcription.

Article 51 **Quotations**

(1) It shall be permissible to make quotations of parts of a disclosed work and of single disclosed photographs, works of fine arts, architecture, applied art, industrial design and cartography, provided it is necessary for the purpose of illustration, argumentation or referral.

(2) In cases stated in the foregoing paragraph, the source and authorship of the work

must be indicated, if the latter is indicated on the work used.

Article 52
Accessory works of secondary importance

Such disclosed works that may be regarded as accessory works of secondary importance with regard to the actual purpose of some material object, may be used freely while exploiting such object.

Article 53
Free transformations

Transformation of a disclosed work is permissible:

1. if it is a private or other internal transformation, which is not intended for, and not available to the public;
2. if the work is transformed into a parody or caricature, provided this does not, or is not likely to, create confusion as to the source of the work;
3. if the transformation is dictated by the purpose of the permitted use;
4. if the transformation is done in connection with permitted use and the author's objection to such transformation is unreasonable or in bad faith.

Article 53a
Databases

(1) A lawful user of a disclosed database or of a copy thereof may freely reproduce or alter that database, if this is necessary for the purposes of access to its contents and the normal use of those contents. Where the user is authorized only to a part of the database, this provision shall apply only to that part.

(2) Any contractual provision contrary to the preceding paragraph shall be null and void.

Article 54
Public exhibition or sale of artistic works

(1) The organiser of a public exhibition or sale of artistic works shall be free to use such works to the extent necessary to promote the event, provided that this is not done for direct or indirect economic advantage.

(2) In cases referred to in paragraph 1, the source and authorship of the work shall be indicated if the latter is indicated on the work used.

Article 55

Works located in generally accessible premises

- (1) Works permanently placed in parks, streets, squares, or other generally accessible premises may be used freely.
- (2) Works mentioned in the foregoing paragraph may not be reproduced in a three-dimensional form, used for the same purpose as the original work, or used for economic gain.
- (3) In cases stated in paragraph (1) of this Article, the source and authorship of the work must be indicated, if the latter is indicated on the work used.

Article 56

Official proceedings

The use of works shall be free if this is indispensable, in certain concrete cases, for the performance of tasks relating to public security or the performance of any official proceedings, such as proceedings in the National Assembly or National Council of the Republic of Slovenia, or judicial, administrative or arbitrary proceedings.

Article 57

Testing of equipment

Workshops and shops that manufacture or sell phonograms, videograms, equipment for their reproduction or public communication and equipment for reception of broadcasts, may, in order to test their functioning at the time of manufacture or sale, freely reproduce and publicly communicate works, provided this is done only to the extent necessary for the purpose of testing.

Section V

Limitations on the duration of copyright

Article 58

Effect of the lapse of time

On the expiration of the terms of protection of copyright, as set forth in this Section, the work ceases to enjoy copyright protection.

Article 59

General provision

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

Article 60
Co-authors

If the work was created by a number of authors, the term of protection mentioned in the foregoing Article, shall be calculated from the death of the last surviving co-author.

Article 61
Anonymous and pseudonymous works

(1) Copyright in anonymous and pseudonymous works shall run for 70 years after the lawful disclosure of the work.

(2) When the pseudonym leaves no doubt as to the identity of the author, or if the author discloses his identity during the period referred to in the foregoing paragraph, the term of protection shall be that laid down in Article 59 of this Act.

Article 62
Collective works

In case of collective works, the copyright shall run for 70 years after the lawful disclosure of the work.

Article 63
Special term for certain undisclosed works

When the term of protection under this Act does not run from the death of the author or authors, and the work was not lawfully disclosed within 70 years from its creation, the copyright shall terminate with the expiration of this term.

Article 64
Serial works

When, according to this Act, the term of protection is calculated from the day of lawful disclosure of the work, and the work is disclosed over a period of time in volumes, parts, sequels, issues, or series, the term of protection shall be calculated for each of these components separately.

Article 65

Collections

(1) Insubstantial changes to the selection, adjustment or arrangement of the contents of a collection shall not extend the term of protection in that collection.

(2) "Insubstantial changes", within the meaning of the foregoing paragraph, are

additions, deletions, or alterations to the selection or arrangement of the contents of a collection, which are necessary in order that this collection may continue to function in the way it was intended by its author.

Article 66
The right of withdrawal

The right of withdrawal shall run for the life of the author.

Article 67
Calculation of terms

The terms of protection laid down in this Section shall be calculated from the first day of January of the year following the year in which the event which gives rise to them has occurred.

Chapter III
TRANSFER OF COPYRIGHT

Section I
General provisions

Article 68
Succession

Copyright as a whole, with the exception of the right to withdrawal, is subject to succession.

Article 69
Non-transferability of copyright as a whole

Copyright as a whole cannot be transferred.

Article 70
Assignment of single rights

(1) An author may not assign his moral rights to other persons.

(2) An author may assign to other persons single economic rights and other rights of the author, either by contract or by another legal transaction recognized in law, unless otherwise provided by

this Act.

Article 71

Execution

- (1) Copyright, unfinished works and undisclosed originals are not subject to execution.
- (2) Only economic benefits deriving from copyright may be subject to execution.

Article 72

Legal capacity

- (1) Rights recognized by this Act to the author, including the right to seek legal redress, belong to another right holder to the extent in which they are assigned to him by law or by legal transaction, unless otherwise provided by this Act.
- (2) Collecting societies referred to in this Act, trade union organisations and professional associations established for the protection of copyright and related rights shall also have legal capacity to enforce protection of their members' rights under this Act before courts and other bodies. They shall render account of all procedures to the members concerned.

Section II

General part of copyright contract law

Article 73

Scope of assignment

An assignment of single economic rights or other single rights of the author may be limited as to the extent, territory, or time.

Article 74

Exclusive and non-exclusive assignment

- (1) A non-exclusive assignment gives an assignee the right to exploit the work according to the terms of the assignment and in competition with both the author and other assignees.
- (2) An exclusive assignment gives an assignee the right to exploit the work according to the terms of the assignment and to the exclusion of the author and any other person.
- (3) Non-exclusive assignment made prior to a subsequent exclusive assignment is valid

and effective as to the assignee of the exclusive rights, unless otherwise provided by the agreement between the author and the assignee of the non-exclusive rights.

Article 75

Presumptions as to the scope of assignment

(1) Unless otherwise provided by law or contract, it shall be presumed that rights are assigned non-exclusively, that the assignment is territorially limited to the Republic of Slovenia, and that the assignment is limited in its duration to the term customary for this category of works.

(2) If it is not specified which single rights are assigned, or to what extent a single right is assigned, it shall be presumed that only such rights, and only to such extent are assigned, as is essentially for the achievement of the intentions of the contract.

Article 76

The rule of separate assignments

(1) An assignment of a single economic right or other single right of the author has no effect on the assignment of his other rights, unless otherwise provided by this Act or by contract.

(2) An assignment of the right of reproduction of the work (Article 23), does not include the assignment of the right of its saving in electronic form, or the right to its sound or visual fixation, unless otherwise provided by law or contract.

(3) An assignment of the right of distribution of copies of a work (Article 24), does not include the assignment of the right of importation of such copies, unless otherwise provided by law or by contract.

(4) When the right of rental of phonograms or videograms containing a copyright work is assigned (Article 25), the author retains the right to an equitable remuneration for each such rental. An author cannot waive this right.

Article 77

Presumptions of joint assignment

(1) In case of assignment of the right of reproduction of the work (Article 23), it shall be presumed that the right of distribution of copies of such work (Article 24), has been also assigned, with the exception of the right of importation, unless otherwise provided by contract.

(2) In case of assignment of the right of broadcasting (Article 30), it shall be presumed that the broadcasting organization also acquired the right:

1. to make fixations of the work, on condition that the broadcasting organization makes such fixations with its own facilities and for its own broadcasts, that it broadcasts them

only once, and that it destroys such fixations no later than one month after the broadcast (ephemeral fixations); and

2. to deliver ephemeral fixations to a public archive if such fixations have exceptional documentary value. The broadcasting organization must immediately notify the author about this.

Article 78

Subsequent assignments

(1) An assignee to whom an economic right or other author's right has been assigned, may not, without the consent of the author, further assign this right to a third party, unless otherwise provided by contract.

(2) Consent, mentioned in the foregoing paragraph, is not required where subsequent assignment of the right is effected in consequence of corporate changes, bankruptcy or liquidation of the assignee.

(3) Where subsequent assignment is allowed without the author's consent either by law or by contract, the initial and subsequent assignees are jointly liable to the author for his claims.

Article 79

Nullity

Any contractual stipulation shall be considered null and void, if the author undertakes to assign with it:

1. copyright in its entirety;
2. moral rights;
3. economic rights with respect to all his future works;
4. economic rights with respect to yet unknown means of use of his work.

Article 80

Formality

(1) All assignments of economic rights or other author's rights, and all authorizations must be in writing, unless otherwise provided by law.

(2) In case of noncompliance with the formality, required in the foregoing paragraph, all controversial or unclear stipulations shall be interpreted in favour of the author.

Article 81

Royalty and remuneration

(1) Where royalty or remuneration was not determined, it shall be determined by taking

into account the usual fees for a particular category of works, the scope and duration of exploitation, and other circumstances of the case.

(2) Where the profit derived from the exploitation of the work is in manifest disproportion to the agreed upon or determined royalty or remuneration, the author may demand that the contract be revised, so that a more equitable share of the revenues is provided for him.

(3) An author cannot waive the right mentioned in the foregoing paragraph.

Article 82 **Accounting**

(1) Where the royalty or remuneration is agreed to, or determined in proportion to the revenues derived from the exploitation of the work, the user of the work must keep the books or other documentation necessary to determine the amount of such revenues.

(2) The user of the work shall allow the author to inspect the documentary evidence mentioned in the foregoing paragraph, and shall send him adequate reports on the revenues, both at usual intervals and to the necessary extent.

Article 83 **Revocation of economic right**

(1) An author may revoke an assigned economic right, in case its exclusive holder exploits such right to insufficient extent or not at all, and the author's valid interests are considerably adversely affected thereby. Author cannot revoke the right, if the reasons for non-exploitation or insufficient exploitation originate preponderantly from his sphere.

(2) The revocation mentioned in the foregoing paragraph cannot be effected before the expiration of two years from the time of assignment of the economic right to a work. In case of contributions to daily newspapers, this term shall be three months, and in case of other periodical publications, the term shall be one year.

(3) An author may exercise his revocation, according to this Article, only after first giving the holder adequate additional time to comply with the demand for sufficient exploitation.

(4) With the exercise of revocation, the economic right of the holder shall be extinguished.

(5) Author cannot waive the right of revocation, as provided by this Article.

(6) If equity so requires, the author must adequately indemnify the holder.

Article 84 **Authors' collective agreements**

Organizations of authors of individual categories of works and the users of such works or their associations may in accordance with this Act:

1. lay down general rules for the use of copyright works; 2. conclude tariff agreements.

Section III

Special part of copyright contract law

Subsection I

Publishing contract

Article 85

Definition

(1) By a publishing contract the author undertakes to assign to the publisher the right of reproduction of his work in the form of printing, and the right to distribute the copies of the work, while the publisher undertakes to pay the author an agreed upon remuneration, and to reproduce and distribute the work.

(2) A publishing contract with respect to a certain work may also include the agreement on a club edition, pocket-book edition, periodical edition in instalments, the assignment of the right of translation, etc.

Article 86

Rights of an agent

An author's agent may conclude a publishing contract only for such works as are expressly mentioned in his power of attorney.

Article 87

Contents of the contract

(1) The publishing contract shall specify, in particular, the type of assignment of rights, the scope and duration of the assignment of rights, territorial limitations of rights, the time limit within which the publisher is required to publish the work, and the amount of remuneration to be paid to the author.

(2) If the royalties are fixed as a percentage of the retail price of the copies sold, the publishing contract must specify the minimum number of such copies of the first edition. Such provision is not necessary, if the contract provides for minimum royalties, which the publisher should pay to the author regardless of the actual number of copies sold.

(3) If the royalties are set as a lump sum, the publishing contract must specify the total number of copies to be printed. If this number is not specified, and unless otherwise

indicated by the purpose of the contract, standard terms, or general usage, the publisher may reproduce and distribute a maximum of 500 copies of the work.

Article 88
Presumption of exclusivity of assignment

(1) During the period of validity of the publishing contract, the author may not assign the right of reproduction and the right of distribution of the work in the same language to a third party, unless otherwise provided by contract.

(2) The right of reproduction and distribution of newspaper articles may be assigned by the author simultaneously to several users, unless otherwise provided by contract.

Article 89
Publisher's priority right

(1) The publisher who has acquired the right to publish the work in a book form has, among equal offerees, the priority right to publish the work in electronic form.

(2) The priority right, mentioned in the foregoing paragraph, shall run for the period of three years from the agreed upon date of publication of the work. Publisher must give written notice within 30 days of the acceptance of author's written offer.

Article 90
Improvements of the work

Unless otherwise provided by contract, the publisher shall be required to allow the author to make improvements or other alterations to his work when new editions are prepared, provided this does not involve excessive costs to the publisher and does not alter the character of the work.

Article 91
Destruction of work by force majeure

(1) Where the work is destroyed by force majeure after its delivery to the publisher, the author is entitled to the remuneration that would have been due to him if the work had been published.

(2) When a prepared edition is completely destroyed by force majeure before it was put into circulation, the publisher is entitled to prepare a new edition, and the author shall have the right to remuneration only for the destroyed edition.

(3) When a prepared edition is partially destroyed by force majeure before it was put into circulation, the publisher is entitled to reproduce, without payment of remuneration to the author, only such number of copies as were destroyed.

Article 92

Termination of contract

(1) The publishing contract shall terminate:

1. if the author dies before the completion of the work;
2. if the copies of all agreed upon editions are sold out;
3. if the term of the contract has expired;
4. in other cases provided for by law or contract.

(2) The author may rescind the publishing contract if the publisher, after an edition is sold out, does not proceed to publish a new agreed upon edition within three years of the date when the author requested it, unless otherwise provided by contract.

(3) An edition shall be considered sold out, within the meaning of the foregoing paragraphs, if the number of unsold copies is under 5% of the total edition, and in any case, if the number is less than 100 copies.

(4) If the publisher does not publish the work within the stipulated time limit, the author may rescind the contract and claim damages, in addition to the right to keep the remuneration received, or to demand payment of stipulated remuneration, as the case may be.

(5) If the time limit for publication of the work is not stipulated in the contract, the publisher shall be required to publish the work within reasonable time, but not later than one year from the date of the delivery of the work.

Article93

Exception to the formality requirement

Provisions of this Act, requiring a copyright contract to be made in writing, shall not apply to the contract for the publication of articles, drawings or notes in newspapers, magazines, and other periodicals.

Article94

Destruction of copies

(1) If the publisher intends to dispose of the unsold copies of the work for pulping within the period of three years from the agreed upon date of publication of the work, unless longer period is provided by publishing contract, he should first offer them to the author, at the price he would have obtained if copies were sold for pulping.

(2) If the author does not purchase the offered copies or purchases only part of them, the publisher may sell the remaining copies for pulping.

Subsection II

Performance contract

Article95
Definition

By a contract of performance, an author undertakes to assign to the user the right of public recitation, public performance or public staging of his work, while the user undertakes to pay to the author the agreed upon remuneration and to recite, perform or stage the work.

Article96
Contentof contract

The performance contract shall specify, in particular, the type of assignment of rights, the scope and duration of the assignment of rights, territorial limitations of rights, time limit within which the work is to be performed, and the amount of remuneration to be paid to the author.

Article97
Obligations of the user

The user shall be required to allow the author to inspect the performance of the work, to provide for adequate technical conditions under which the work can be performed, and to send to the author the playbill, other printed materials, and public reviews of the performance, unless otherwise provided by contract.

Article 98
Rescission of contract

If the user does not perform the work within the stipulated time, the author may rescind the contract and claim damages, in addition to the right to keep the remuneration received or to demand payment of stipulated remuneration.

Subsection III
Contract for a copyright work made for hire

Article 99
Copyright works made for hire

(1) By a contract for a copyright work made for hire, an author undertakes to create a certain work and deliver it to the person ordering it, while the latter undertakes to pay a fee to the author.

(2) The person ordering the work may supervise the process and give instructions, unless he is thereby interfering with the author's freedom of scientific or artistic expression.

(3) The author retains the copyright to a work for hire, with the exception of the right of distribution, unless otherwise provided by this Act or by contract.

(4) To the contract for a copyright work made for hire, provisions concerning works contracts shall apply, unless otherwise provided by this Act.

Article 100
Collective copyright work

(1) Collective copyright work is a work created on the initiative and under the organization of a natural person or a legal entity ordering it, by the collaboration of a large number of co-authors, which is published and used under the name of the person ordering it (e.g. encyclopaedias, anthologies).

(2) A special contract must be concluded for the purpose of creating a collective work. If the conditions mentioned in the foregoing paragraph are not met, such contract is null and void.

(3) It shall be deemed that the economic rights and other rights of the authors to a collective work are exclusively and without limitations assigned to the person ordering the work, unless otherwise provided by contract.

Subsection IV
Employment

Article 101
Copyright work created in the course of employment

(1) When copyright work is created by an employee in the execution of his duties or following the instructions given by his employer (copyright work created in the course of employment), it shall be deemed that the economic rights and other rights of the author to such work are exclusively assigned to the employer for the period of ten years from the completion of the work, unless otherwise provided by contract.

(2) On the expiration of the term mentioned in the foregoing paragraph, the rights mentioned in the foregoing paragraph revert to the employee, however, the employer can claim a new exclusive assignment of these rights, for adequate remuneration.

Article 102
Special rights

Irrespective of the provisions of the foregoing Article:

1. an employee retains the exclusive right to use a work, created in the course of employment, as part of his collected works;

2. it shall be deemed that economic rights and other rights of the author to a database and to a collective work, are assigned exclusively and without limitations to the employer, unless otherwise provided by contract.

Chapter IV SPECIAL PROVISIONS FOR COPYRIGHT WORKS

Section I Audiovisual works

Article 103 Definition

Audiovisual works according to this Act, are cinematographic films, television films, animated films, short music-videos, advertising films, documentaries and other audiovisual works, expressed by means of sequence of related moving images, with or without incorporated sound, irrespective of the nature of the medium in which the said works are embodied.

Article 104 The right of audiovisual adaptation

- (1) The right of audiovisual adaptation is the exclusive right to transform or include a pre-existing work in an audiovisual work.
- (2) It shall be deemed that, by making a contract of audiovisual adaptation, the author of a pre-existing work had assigned to the film producer, exclusively and without limitations, the right of transformation and inclusion of the pre-existing work in an audiovisual work, his economic rights and other rights of the author in this audiovisual work, its translations, its audiovisual transformations and to photographs made in connection with the production of the audiovisual work, unless otherwise provided by contract.
- (3) Regardless of the provisions of the foregoing paragraph, the author of a pre-existing work shall retain:
 1. the exclusive right to further transformation of the audiovisual work into another artistic form;
 2. the exclusive right to a new audiovisual adaptation of the pre-existing work, however, only after the expiry of ten years from the making of the contract mentioned in the above paragraph;
 3. the right to claim equitable remuneration from the film producer for each rental of videograms of an audiovisual work.
- (4) Author of a pre-existing work cannot waive the rights mentioned in the foregoing paragraph.

Article 105

Co-authors of an audiovisual work

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

1. the author of the adaptation,
2. the author of the screenplay,
3. the author of the dialogue,
4. the director of photography,
5. the principal director,
6. the composer of music specifically created for use in the audiovisual work.

(2) If animation represents an essential element of the audiovisual work, the principal animator shall be considered as co-author of that work.

Article 106

Authors of contributions to audiovisual work

An animator and a composer of film music, who are not considered co-authors of an audiovisual work within the meaning of the foregoing Article, a scenographer, a costumographer, a make-up artist, and an editor, shall all have authors' rights with respect to their individual contributions to an audiovisual work (authors of contributions).

Article 107

Film production contract

(1) The relationships between the film producer and the authors of an audiovisual work and authors of contributions, as well as the relationships between the authors themselves, shall be regulated by contract of film production, which according to this Act, shall be made in writing.

(2) It shall be deemed that co-authors, by making a film production contract, have assigned to the film producer, exclusively and without limitations, all their economic rights and other rights of the author to an audiovisual work, its translation, its audiovisual transformations, and photographs made in connection with this work, unless otherwise provided by contract.

(3) It shall be deemed that, by making a film production contract, authors of contributions have assigned to the film producer, exclusively and without limitations, the right to use their contributions for the purpose of completion of the audiovisual work.

(4) Regardless of the provisions of the foregoing paragraphs:

1. the co-authors retain the exclusive right to further transformation of an audiovisual work into another artistic form;
2. the authors of contributions retain the right to use separately their contributions to an

audiovisual work, unless the rights of the film producer are prejudiced thereby;
3. the co-authors retain the right to claim equitable remuneration from the film producer for each rental of videograms of an audiovisual work.

(5) Co-authors and authors of contributions cannot waive the rights mentioned in the foregoing paragraph.

Article 108

Royalty

(1) Co-authors of an audiovisual work are entitled to a remuneration separately for each assigned economic right or other right of the author.

(2) Film producer must at least once a year send to the co-authors of an audiovisual work a report on the revenues, separately for each authorized form of exploitation of the work.

Article 109

Completion of an audiovisual work

(1) An audiovisual work shall be deemed completed when, according to the agreement between the principal director and the film producer, the first standard copy of a work, which is the subject matter of the contract, is finished.

(2) The master of the copy mentioned in the above paragraph must not be destroyed.

(3) Any changes to the copy of the audiovisual work, mentioned in paragraph (1) of this Article, shall be permissible only after previous agreement between the film producer and the principal director has been reached.

(4) When any of the co-authors refuses to complete his contribution to the audiovisual work or if he is unable to do so owing to force majeure, he may not object to the use of his contribution

already made for the purpose of completion of such work. Such author shall have respective rights as to the contribution he has already made.

Article 110

Rescission of contract

(1) If a film producer does not complete the audiovisual work within five years from the

making of the film production contract, or if he does not distribute the completed audiovisual work within one year from the time of its completion, the co-authors may demand that the contract be rescinded, unless different term was stipulated in the contract.

(2) In the case mentioned in the foregoing paragraph, co-authors and authors of contributions retain the right to remuneration.

Section II Computer programs

Article 111 Definition

(1) Computer programs, within the meaning of this Act, are programs expressed in any form, including preparatory design materials for their creation.

(2) Ideas and principles, which underlie any element of a computer program, including those which underlie its interfaces, are not protected.

(3) Computer programs shall be protected if they are individual works, in the sense that they are their author's own intellectual creations.

Article 112 Employment and works made for hire

Where a computer program is created by an employee in the execution of his duties or following the instructions given by his employer, or where it is created by an author under a contract for a work made for hire, it shall be deemed that the economic rights and other rights of the author to such program are assigned to the employer or person ordering the work, exclusively and without limitations, unless otherwise provided by contract.

Article 113 Rights of the author

(1) Unless otherwise provided in Articles 114 and 115 of this Act, the author of a computer program shall have the exclusive right, in particular:

1. to make permanent or temporary reproductions of a computer program by any means and in any form, in part or in whole. Insofar as loading, displaying, running, transmission or storage of

the computer program necessitate its reproduction, the author's permission shall be necessary for such acts;

2. to make translations, adaptations, arrangements and any other alterations of a

computer program and the reproduction of the results thereof, without prejudice to the rights of the person who alters the program;

3. to distribute the original of the computer program or copies thereof in any form, including its rental.

(2) The author may assign the rights mentioned in the foregoing paragraph to third persons also with a license agreement.

Article 114 **Limitations of the scope of author's rights**

(1) Unless otherwise provided by contract, the acts referred to under items 1 and 2 of the foregoing Article, including error corrections, may be done by the lawful acquirer of the program without the authorization of the author, if they are necessary for the use of the computer program in accordance with its intended purpose.

(2) A person having the right to use a computer program may, without the authorization by the author, make a maximum of two back-up copies of it, if that is necessary for its use.

(3) A person having the right to use a copy of a computer program shall be entitled, without the authorization by the author, to observe, study or test the functioning of a program in order to determine the ideas and principles that underlie any element of the program, if he does so while performing any of the acts of loading, displaying, running, transmitting or storing the program which he is entitled to do.

(4) Provisions of this Act, relating to the right of withdrawal (Article 20), and to the private or other personal use (Articles 37 to 39, and Article 50), do not apply to computer programs. Computer programs may not be lent publicly (Article 36), unless otherwise provided by a contract between the author and the user.

(5) Contractual stipulations contrary to the provisions of paragraphs (2) and (3) of this Article, shall be null and void.

Article 115 **Decompilation**

(1) Reproduction of the code and translation of its form, within the meaning of items 1 and 2 of Article 113 of this Act, shall not require the authorization of the author, where such reproduction or translation is indispensable to obtain the information necessary to

achieve the interoperability of an independently created computer program with other programs, or with hardware, provided that the following conditions are met:

1. that these acts are performed by the licensee or by another authorized user, or on their behalf, by a person authorized to do so;

2. that the information necessary to achieve interoperability has not been previously readily available to the persons referred to in foregoing item;

3. that these acts are confined only to those parts of the pre-existing program which are necessary to achieve interoperability.

(2) The information obtained through the application of the foregoing paragraph may not be:

1. used for goals other than to achieve the interoperability of the independently created computer program;

2. given to others, except when necessary for the interoperability of the independently created computer program;

3. used for the development, production or marketing of another computer program substantially similar in its expression, or for any other act that infringes copyright.

(3) The provisions of this Article may not be interpreted in such way as to allow its application to be used in a manner that unreasonably prejudices legitimate interests of the author or conflicts with a normal use of the computer program.

(4) Contractual stipulations contrary to the provision of this Article shall be null and void.

Article 116 **Special measures of protection**

As infringements of copyright in a computer program shall be deemed the following acts of a person:

1. any distribution of a copy of a computer program, knowing or having reason to believe, that it is an infringing copy; or

2. the possession, for commercial purposes, of a copy of a computer program, knowing or having reason to believe, that it is an infringing copy.

Article 117 **Application of other legal provisions**

The provisions of this Subsection shall be without prejudice to any other legal provisions on computer programs, such as those concerning patents, trademarks, unfair

competition, trade secrets, protection of semi-conductor products or the law of contract.

Chapter V
RELATED RIGHTS

Section I
Rights of performers

Article 118
Definition

(1) "Performers" are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform copyright works or expressions of folklore.

(2) As performers within the meaning of the above paragraph, shall be deemed directors of theatrical presentations, conductors of orchestras, choir directors, sound editors, and variety and circus artists.

Article 119
Representative of a group of performers

1 Performers who collectively take part in a performance, such as members of an orchestra, choir, dancing troupe, theatrical group or other similar ensemble, shall designate one of their members to be their representative for the grant of authorizations necessary for the performance.

2 To take effect, such power of attorney shall be in writing and shall require the majority consent of all members of the ensemble.

(3) Provisions of the above two paragraphs shall not apply to conductors, soloists, and directors of theatrical performances.

Article 120
Moral rights of performers

(1) The exclusive right of performers to have their name or other designation mentioned in connection with the performance shall be enjoyed:

1. where the performances are given by solo performers - to such performers;
2. where performances are given by ensembles of performers - to such ensemble as a whole, to the artistic director, and to the soloists.

(2) Performers have the exclusive right to object to any distortion and any other tampering with respect to their performance, as well as any use of their performance if such tampering or use could be prejudicial to their person.

Article 121 **Economic rights of performers**

Performers shall have the exclusive right:

1. to fix their live performance;
2. to reproduce the phonograms or videograms containing their performance;
3. to publicly transmit their live performance;
4. to broadcast their live performance;
5. to make available to the public the phonograms or video grams containing their performance;
6. to distribute the phonograms or video grams containing their performance.
7. to rent phonograms or videograms containing their performance.

Article 122 **The right to remuneration in case of public communication of a phonogram**

A performer shall have the right to participate in the remuneration received by the producer of a phonogram for public communication of a phonogram in which his performance is fixed.

Article 123 **The right to remuneration**

The performer shall have the right to remuneration for the reproduction for private or other internal use, according to Article 37 (2) of this Act.

Article 124 **Presumption of assignment**

(1) By entering into a contract for the film production, the performer shall be presumed to have assigned to the film producer, exclusively and without limitations, all economic rights in his performance, unless otherwise provided by contract.

(2) For each economic right which was assigned according to the foregoing paragraph, the performer shall retain the right to demand equitable remuneration from the film producer.

(3) A performer cannot waive the right mentioned in the foregoing paragraph.

Article 125
Completion of audiovisual work

When any of the performers refuses to complete his contribution to the audiovisual work or if he is unable to do so owing to force majeure, he may not object to the use of his contribution already made for the purpose of completion of such work. Such performer shall have respective rights as to the contribution he has already made.

Article 126
Performance given in the course of employment

Where a performance is given by an employee in the execution of his duties or following the instructions given by his employer (performance in the course of employment), the relationships with respect to such performance are governed by a collective agreement or other contract.

Article 127
Terms of protection

Rights of a performer shall run for 50 years after the date of the performance. If the fixation of performance was lawfully published or lawfully communicated to the public within this period, the rights of a performer shall run for 50 years from either the first publication or from the first communication, whichever occurred earlier.

Section II
Rights of producers of phonograms

Article 128
Producers of phonogram

(1) Producer of a phonogram is a person or legal entity, who or which takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds, or the representations of sounds.

(2) Phonogram is a fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in an audiovisual work.

(3) Fixation is an embodiment of sounds or of representations thereof on a medium, from which they can be perceived, reproduced or communicated through a device.

Article 129
Rights of the producer of phonograms

The producer of phonograms shall have the exclusive right:

1. to reproduce his phonograms;
2. to transform his phonograms;
3. to distribute his phonograms;
4. to rent his phonograms;
5. the making available to the public of its phonograms.

Article 130
Right to remuneration for public communication of phonograms

(1) If a phonogram published for commercial purposes or its copy is used for broadcasting or for any other communication to the public, the user shall pay the producer of phonograms a single equitable remuneration for each communication.

(2) The producer of phonograms shall pay half the remuneration mentioned in the foregoing paragraph, to the performers whose performances are fixed on the phonograms used, unless different shares are determined by the contract between the producers of phonograms and the performers.

(3) For the purposes of this Article, phonograms made available to the public by wire or wireless means in such a way that members of the public may access them from a place and at a time individually chosen by them, shall be considered as if they had been published for commercial purposes.

Article 131
Right to remuneration

The producer of phonograms shall have the right to remuneration for reproduction for private or other internal use, according to Article 37 (2) of this Act.

Article 132
Term of protection

The rights of the producer of phonograms shall last for 50 years after the fixation is made. If the phonogram is lawfully published during this period, the rights shall last 50 years from such first publication. If no such publication has taken place, but the phonogram has during this period been lawfully communicated to the public, the rights

shall last 50 years from such first communication to the public.

Section III Rights of film producers

Article 133 Film producer

A film producer is a natural person or a legal entity, that in its own name and on its own, or on somebody else's account, organizes and manages the production of an audiovisual work or of a sequence of moving images, and has the responsibility for its completion.

Article 134 Rights of a film producer

A film producer shall have the exclusive right:

1. to reproduce his videograms;
2. to distribute his videograms;
3. to rent his videograms;
4. to present his videograms to the public;
5. the making available to the public of its videograms .

Article 135 Right to remuneration

A film producer shall have the right to remuneration for reproduction for private or other internal use, according to Article 37 (2) of this Act.

Article 136 Term of protection

The rights of film producers shall run for 50 years from the time of the fixation. If a videogram is lawfully published or lawfully communicated to the public within this period, the rights of a film

producer shall run for 50 years from the date of first publication or first communication to the public, whichever occurred earlier.

Section IV Rights of broadcasting organizations

Article 137 Rights of a broadcasting organization

A broadcasting organization shall have the exclusive right:

1. to rebroadcast its broadcasts;
2. to secondary broadcast its broadcasts if such communication is made in places accessible to the public against payment of an admission;
3. to fix its broadcasts;
4. to reproduce the fixations of its broadcasts;
5. to distribute the fixations of its broadcasts;
6. the making available to the public of its broadcasts.

Article 138 **Term of protection**

The rights of broadcasting organizations shall run for 50 years from the date of the first broadcast.

Section V **Rights of publishers**

Article 139 **Right to remuneration**

(1) Publishers shall have the right to remuneration for reproduction for private or other internal use, according to Article 37 (3) of this Act.

(2) The right mentioned in the foregoing paragraph shall run for 50 years from the lawful publication of the work.

Article 140 **Unpublished works in public domain**

(1) A person who for the first time lawfully publishes or communicates to the public a previously unpublished work in which the copyright has expired, shall enjoy the legal protection equal to that granted by economic rights and other rights of the author under this Act.

(2) The rights mentioned in the foregoing paragraph shall run for 25 years from the date of the first lawful publication or communication to the public of the work.

Article 141 **Critical and scientific editions of works in public domain**

(1) A person who prepares the edition of a work in which the copyright has expired, which is the result of a scientific endeavours and which is essentially different form known editions of this work, shall enjoy the legal protection equal to that granted by

economic rights and other rights of the author under this Act.

(2) The rights mentioned in the foregoing paragraph shall run for 30 years from the date of the first lawful publication of the work.

Section VI
Rights of makers of databases

Article 141a
Databases

(1) A database shall mean a collection of independent works, data or other materials in any form, arranged in a systematic or methodical way and individually accessible by electronic or other means, whereby either the obtaining, verification or presentation of its contents demands a qualitatively or quantitatively substantial investment.

(2) The protection of a database or its contents shall apply irrespective of their protection by copyright or by other rights. The inclusion of a material into a database and its use shall be without prejudice to rights existing in respect of that material.

Article 141b
Scope of protection

(1) Protection of a database under this Section shall apply to:

1. the whole contents of a database,
2. every qualitatively or quantitatively substantial part of its contents,
3. qualitatively or quantitatively insubstantial parts of its contents, when they are used repeatedly and systematically, which conflicts with a normal exploitation of that database or which unreasonably prejudice the legitimate interests of the maker of the database.

(2) Protection under this Section shall not apply to computer programs used in the making or operation of electronic databases.

Article 141c
Rights of the maker of databases

The maker of a database shall have the exclusive right:

1. to reproduce his database,

2. to distribute copies of his database,

3. to rent copies of his database,
4. to make available to the public his database,
5. to other forms of communication to the public of his database.

Article 141d
Rights and obligations of lawful users

(1) A lawful user of a disclosed database or a copy thereof shall free to use qualitatively or quantitatively insubstantial parts of its contents for any purposes whatsoever. Where the user is authorized to use only a part of the database, this Article shall apply only to that part.

(2) A lawful user of a disclosed database or a copy thereof may not perform acts which conflict with a normal exploitation of that database or which unreasonably prejudice the legitimate interests of the maker of the database.

(3) A lawful user of a disclosed database or a copy thereof may not cause prejudice to the copyright or related rights in respect of the works or subject matter contained in that database.

(4) Any contractual provision contrary to this Article shall be null and void.

Article 141e
Employment and contracts for hire

Where a database is made by an employee in the execution of his duties or following the instructions given by his employer, or where it is made by a person under a contract for hire, it shall be deemed that the exclusive rights to such database are exclusively and without limitations assigned to the employer or to the ordering party, unless otherwise provided by contract.

Article 141f
Term of protection

(1) The rights of a maker of databases shall last for 15 years after the completion of the making of the database. If the database is lawfully disclosed within this period, the rights shall last 15 years from such first disclosure.

(2) Any qualitatively or quantitatively substantial change to the contents of a database, which results in a qualitatively or quantitatively substantial new investment, shall qualify the database resulting from that investment for a new term of protection. A substantial change of contents includes also the accumulation of successive additions, deletions or alterations of the database.

Article 141g

Limitations to the right of the maker

(1) Lawful users of a published database shall be free to use a substantial part of its contents:

1. for the purposes of teaching, provided that the conditions of Article 49 are fulfilled;

2. for private or other internal use of the contents of a non-electronic database, provided that the conditions of Article 50 are fulfilled.

(2) The use of the database shall be free if this is indispensable, in particular concrete cases, for the performance of tasks relating to public security or the performance of any official proceedings such as proceedings in the National Assembly or National Council of the Republic of Slovenia, or judicial, administrative or arbitrary proceedings.

Chapter VI

MANAGEMENT AND ENFORCEMENT OF RIGHTS

Section I

General provisions

Article 142

Author and agent

The author may personally manage his author's rights, or he can do so through an agent.

Article 143

Individual and collective management of rights

Authors' rights may be managed singly (individually), that is separately for each copyright work; or, when this Act so provides, they may be managed jointly (collectively), that is for a number of works of several authors at the same time.

Article 144

Scope of agency

(1) Management of authors' rights through an agent includes:

1. representing authors in their legal transactions and relations with persons who use or commission their works, including collection of royalties or other remunerations;

2. representing authors in legal proceedings before courts or other bodies, for the purpose of protecting their authors' rights.

(2) When an author enforces his rights before a court or another State body through an agent, who is a natural or legal person, such agent is entitled to claim a fee for his services and reimbursement of expenses incurred in connection with these services

according to the agent's schedule of fees, provided that he fulfils the conditions for the representation before courts or other State bodies or, where the agent is a legal person, that an authorized employee of such agent fulfils those conditions. Agent's schedule of fees is adopted by the agent or an association of agents, and approved by the Minister of Justice.

Article 145 Related rights

Provisions of this Chapter relating to copyright, shall apply mutatis mutandis to related rights.

Section II Collective management

Article 146 Activities of collecting societies

(1) Collecting societies shall be legal entities that, on the basis of the authorisation of the competent authority, on a non-profit basis and as their sole purpose, on the basis of author's authorisation or this Act, under their name and for author's account:

1. allow the use of repertoire of protected works under the similar rules for similar uses;
2. inform users of the amounts of proposed remunerations and conclude with them agreements concerning the conditions of the use protected works;
3. publish the tariffs for the payment of remunerations;
4. conclude agreements with foreign collecting societies;
5. monitor the use of works of their repertoire;
6. recover remunerations and authors' royalties;
7. distribute collected means to right holders in accordance with adopted rules of distribution; and
8. enforce the protection of authors' rights before courts and other State bodies, provided that they render account to the author for the rights so enforced.

(2) Collecting society may entrust the administrative work in connection with the collective management of rights to another collecting society or to a corporation.

Article 147 Mandatory collective management

Collective management of authors' rights shall be allowed with respect to already disclosed works, and mandatory in the following cases:

1. communication to the public of non-theatrical musical works and literary works (small rights);
2. resale of originals of works of fine arts (resale right);

3. reproduction of works for private or other internal use and its photocopying beyond the scope of Article 50;
4. cable retransmission of works, except in respect of broadcasters' own transmissions, irrespective of whether the rights concerned are their own or have been assigned to them by other right holders.

Article 148 **Request for issuance of authorisation**

The Office shall grant authorisation referred to in Article 146 upon written request of a legal entity. The request shall be accompanied by:

1. a statute which defines bodies, and authority thereof, for the execution of tasks of a collecting society referred to in Article 146;
2. indication of persons who are entitled to represent the collecting society;
3. indication of the number of persons who entrusted the collecting society with the management of authors' rights in their works gathered into a repertoire;
4. the evaluation of economic importance of those rights for the efficiency of management.

Article 149 **Grounds for refusal**

(1) The competent authority shall not issue authorisation if:

1. the statute of the collecting society does not comply with the provisions of this Act;
2. the material basis of the collecting society does not ensure the forecast efficiency of management of authors' rights; or
3. an authorization for collective management of authors' rights has already been issued for the same category of authors' works to another collecting society, unless the legal entity demonstrates that it could provide more efficient and more economical management of authors' rights, and that it could, based on contracts with the authors, manage a more comprehensive repertoire of protected works than the existing collecting society. The earlier authorization shall terminate with the issuance of authorization to the new collecting society.

(2) When assessing the material basis of the collecting society referred to in item 2 of the foregoing paragraph, the following, in particular, shall be considered: the number of authors who have authorised the collecting society to manage their rights, the total number of their works, the extent of the exploitation of works or the volume of potential users of such works, means and ways whereby the collecting society proposes to carry out its activity, its capability to manage the rights of foreign right holders, estimate of the anticipated amount of collected remunerations, and the costs of operation of the collecting society.

Article 150

Issuance of the authorisation

- (1) In the proceeding for the grant of authorisation the Act regulating general administrative procedure shall apply. There shall be no appeal against a decision or order issued by the competent authority, however, an action in the administrative litigation proceedings may be filed with the Administrative Court which shall decide on the case at its seat.
- (2) Notification of the final decision concerning the authorisation shall be published in the Official Gazette of the Republic of Slovenia.

Article 151 Contract with the author

- (1) The collecting society shall manage authors' rights on the basis of a contract concluded with the author. The contract shall include, in particular, the author's authorisation for management of his rights, type of works and rights to be managed, and the duration of the contract, which shall not exceed five years, following which it can be extended for additional periods of five years.
- (2) During the period when the management of rights is transferred to a collecting society, either by law or by contract, the author cannot individually manage those rights.
- (3) The rights referred to in Article 147 may be managed by a competent collecting society without a contract with the author.
- (4) Rights under item 1 of Article 147 can exceptionally be managed individually if in a performance the main performer is at the same time the holder of the author's right in all works executed.

Article 152 Obligation to manage rights collectively

A collecting society shall not refuse to manage authors' rights in the field of its activity if so requests the author who is the citizen of the Republic of Slovenia or the European Union Member State, or has his residence or seat in the Republic of Slovenia.

Article 153 Rules for the distribution of revenue

- (1) A collecting society shall use the revenue of its activity for remunerations and for operating costs, in accordance with the annual plan adopted by its assembly.

(2) A collecting society shall distribute remunerations according to the rules of distribution.

(3) The principles of distribution shall be set forth in the statute of the collecting society and shall exclude any possibility of arbitrariness.

Article 154

Special case of distribution

(1) Of the remunerations collected according to Article 37(2), authors shall receive 40 %, performers 30 %, and producers of phonograms or film producers 30 %.

(2) Of the remunerations collected according to Article 37(3), authors and publishers shall receive 50 % each.

Article 155

Obligation to furnish information

Collecting society shall allow any person to inspect the repertoire of authors' works and, upon written request of any person, provide information as to under what conditions it manages rights on behalf of an author.

Article 156

Tariff

(1) The tariff for the use of authors' rights shall fix the amount and method for calculation of author's royalty or remuneration payable by each user to the collecting society for the use of an author's work from the repertoire of the collecting society.

(2) The tariff shall be fixed by an inclusive agreement concluded between the collecting society and a representative association of users, or, if this is not possible, by a decision of the Copyright Board (hereinafter referred to as "the Board"). Until a different final decision of the Board, the tariffs fixed in the current agreement shall be considered as appropriate.

(3) The following shall be taken into account in fixing the appropriate tariff, in particular:

I. complete gross earnings achieved through the use of an author's work, or, if this is not possible, complete gross costs related to this use;

2. importance of an author's work for the activity of the user;
3. the ratio between the protected and non-protected authors' works used;
4. the ratio between the rights managed collectively and those managed individually;
5. particular complexity of collective management of rights due to certain use of authors' works;
6. comparability of a proposed tariff with those of collecting societies of the same category in other, especially neighbouring, EU states, taking into account the GDP per inhabitant in a unit of purchasing capacity.

(4) When, for a certain use of authors' works, the tariff has not been fixed yet, collecting society may itself fix a provisional tariff, which shall apply until the tariff under paragraph (2) of this Article has been fixed. Collecting society shall publish the provisional tariff in the Official Gazette of the Republic of Slovenia.

Article 157 **Inclusive agreement**

(1) Collecting society shall conclude a written inclusive agreement with a representative association of users of authors' works from the collecting society's repertoire. Representative associations are those associations of users which represent the majority of users in a certain field of activity with regard to their number, or those recognized as representative by some other act.

(2) An inclusive agreement may also be concluded between a collecting society and an individual user of authors' works from its repertoire, when, due to the nature of his activity, he is the only one performing this activity. The provisions applying to representative associations of users shall also apply, *mutatis mutandis*, to an individual user under this provision.

(3) Collecting society shall publish an initial invitation to negotiate the terms for conclusion of an inclusive agreement in the Official Gazette of the Republic of Slovenia.

(4) An inclusive agreement shall fix at least:

1. the tariff;
2. the terms of use of authors' works with regard to different conditions of use;
3. the conditions of use requiring an increase, decrease or exemption from payment of author's royalty or remuneration according to the tariff;
4. the due date for payment of author's royalty or remuneration;
5. the method of payment of author's royalty or remuneration, and possible final calculation with

regard to the provisional tariff referred to under paragraph (4) of the foregoing Article for the use of authors' works until the conclusion of an inclusive agreement, if the tariff for a certain category of use of authors' works is being fixed for the first time by this inclusive agreement.

(5) Collecting society shall publish an inclusive agreement in the Official Gazette of the Republic of Slovenia.

(6) The inclusive agreement shall enter into force on the fifteenth day following its publication in

the Official Gazette of the Republic of Slovenia, and shall apply to all users of the same category of authors' works from the repertoire of the collecting society, irrespective of whether they took part in the negotiations or in concluding this agreement. The users of authors' works from the repertoire of the collecting society are bound to conclude a contract with the collecting society in accordance with the current inclusive agreement.

(7) Courts are bound by the current inclusive agreement.

(8) The provisions of this Article shall apply, *mutatis mutandis*, to amendments or termination of inclusive agreements.

Article 157a **Proceedings with the Board**

(1) A collecting society or a representative association of users may, at any time after the publication of a provisional tariff referred to in paragraph (4) of Article 156 of this Act, or when they have not concluded an inclusive agreement within four months from the beginning of negotiations, request the Board to fix an appropriate tariff or decide on any other issue regarding the inclusive agreement.

(2) Anyone who demonstrates legal interest may request the Board to find out whether an inclusive agreement complies with the provisions of this Act, and whether the tariff fixed by the agreement is appropriate, unless the Board has already decided on this issue.

(3) The proceedings before the Board are initiated by a written claim that should include at least:

1. applicant's details;
2. explanation of issue;
3. report on the course of negotiations for conclusion of inclusive agreement carried out so far, including evidence of the date of their beginning;
4. proposal of a tariff to be decided by the Board, or proposal of a solution to some other issue.

(4) The Board shall send the claim referred to in the foregoing paragraph to the counterparty or - in the case of paragraph (2) of this Article - to the collecting society and representative association of users who have concluded the contested agreement, and shall invite them to state their opinion regarding the claim.

(5) Each party shall state the facts and provide proofs on which it bases its proposals, or by which it contests the allegations and proofs of the counterparty. The Board shall not be bound by the proposed evidence and claims of the parties.

(6) The Board may, at any time, impose on the parties to submit additional material and information which they consider may facilitate the proceedings, especially to prepare appropriate reports, submit expert opinions, and the like. Having regard of all the circumstances, the Board shall determine as to the importance of the fact that a party has not complied with the provision referred to in the foregoing or this paragraph.

(7) In proceedings before the Board, the provisions of the Act regulating general administrative procedure shall apply, *mutatis mutandis*, with the exception of the provisions on legal remedies and execution, save as otherwise provided by this Act.

Article 157b **The Board's decision**

(1) By its decision the Board shall fix an appropriate tariff or decide on other issue, whereby the Board may approve, amend or annul, in whole or in part, a contested inclusive agreement.

(2) When necessary considering the circumstances of the case, the Board may issue, during the proceedings and upon a party's proposal, a decision fixing the tariff for the duration of the proceedings before the Board. The decision shall be issued on the basis of information existing during decision making, and shall be effective until the issuance of the decision referred to in the foregoing paragraph. No court action referred to in Article 157d of this Act shall be permitted against the decision under this paragraph.

(3) The final decision of the Board shall constitute a part of an inclusive agreement or shall substitute such agreement, when it changes, amends or annuls the contested inclusive agreement, or when an inclusive agreement has not been concluded.

(4) The final decision of the Board shall be published in the Official Gazette of the Republic of Slovenia.

Article 157c

Costs of proceedings before the Board

(1) The costs of proceedings before the Board include the costs incurred by the parties and those incurred by the Board.

(2) Each party shall bear its own costs resulting from the proceedings before the Board.

(3) Both parties shall cover in equal shares the following costs incurred by the Board:

- the Board members' remunerations,
- travel and other reasonable expenses of the Board members,
- costs needed for implementation of evidence,
- administrative costs.

(4) The party who initiates the proceedings shall advance appropriate money to cover its operating costs; otherwise, the Board will reject the proposal for initiation of proceedings.

(5) The provision of the foregoing paragraph shall apply, *mutatis mutandis*, to anyone who applies in any way or proposes any actions within the proceedings.

(6) A Board member's remuneration shall amount to one third of the basic monthly salary of a District Court Judge for each month of duration of proceedings started, while the Board President's remuneration shall be a Board member's remuneration increased by 20%.

(7) The Board shall decide by a separate decision on its costs and whether any party should reimburse the other party for the appropriate part of the costs paid, taking into account the advances paid.

Article 157d Judicial protection against the Board's decisions

(1) An action is permitted against a decision of the Board, which should be brought before the Supreme Court of the Republic of Slovenia within 30 days following the service of the decision. A committee consisting of three judges of the Supreme Court of The Republic of Slovenia will decide on the action.

(2) The Court will examine the Board's decision within the bounds of the action and within the bounds of the grounds stated in the action. In so doing, the Court shall on its own motion pay attention to any material breaches of the procedural provisions as to the question whether or not the party has been given an opportunity to make a statement on the facts and circumstances of importance for the contested decision.

(3) Once in judicial protection proceedings, the plaintiff shall not state any new facts or present new evidence.

(4) The Court will decide without hearing.

(5) There shall be no appeal against the judgement and no review of the judgement.

(6) The proceedings of judicial protection under this Article shall be governed, *mutatis mutandis*, by the provisions of the Act regulating administrative disputes, save as otherwise provided by this Act. The Board shall enjoy exemption from legal dues in administrative dispute.

Article IS7e The Board

(1) The Board shall be a scientific, independent and impartial authority, which shall have the following competences in respect of collective management of rights:

I. fixing the appropriate tariff for the use of authors' works;

2. deciding on any other issue regarding the conclusion of an inclusive agreement;
3. checking that the agreement meets the provisions of this Act.

(2) When parties to the matters referred to in the foregoing paragraph have concluded an arbitration contract or adopted an arbitration contract provision, such contract or provision shall be null and void.

Article IS7f **Organization of the Board**

(1) The Board shall consist of the President and four members.

(2) The President of the Board shall qualify for a District Court Judge according to the Act regulating the service of judges; each member of the Board shall have university degree, at least

five years of work experience, and the knowledge of at least one foreign language. All members of the Board must possess knowledge in copyright law.

(3) Collecting society and representative associations of users shall each appoint two members of the Board. The President and the members shall be nominated by the Minister responsible for the economy. The Minister responsible for the economy may reject the appointment of a proposed member of the Board when the latter does not meet the terms referred to in the foregoing paragraph.

(4) The competent authority shall publish in the Official Gazette of the Republic of Slovenia a public call for collecting societies and representative associations of users to propose, within three months, their two members of the Board.

(5) When a collecting society or representative associations of users do not comply with paragraphs (3) and (4) of this Article, the competent authority shall propose itself the outstanding member.

(6) The Board shall be located at the premises of the competent authority, which shall provide administrative assistance to the Board.

Article 158 **Obligation to contract**

(1) The user of works from the repertoire of a collecting society may request, at any time, the conclusion of a contract for the non-exclusive assignment of rights for the use of authors' works in accordance with the valid tariff. Collecting societies may refuse such a request insofar as they have an objective reason to do so, such as a history of non-payment on the side of the user.

(2) Should parties fail to conclude a contract for the non-exclusive assignment of rights

for the use of protected works, the right shall be deemed to have been assigned if the user deposits in the account of the collecting society, or with a court or notary, the amount demanded by the collecting society according to the valid tariff.

Article 159
Obligation of users to provide information

(1) Organizers of public entertainments, and other users of protected works, shall acquire the rights of public communication, in case where authorization is required under this Act, prior to such use, and shall submit to the competent collecting society the list of all works used within fifteen days after the use.

(2) On request of the author, or of the collecting society, the competent authority for internal affairs may prohibit the public performance, presentation or other use of a protected work, in case the organizer failed to previously acquire the rights referred to in the foregoing paragraph.

(3) Broadcasting organizations shall monthly submit to the competent collecting society a list of all broadcast copyright works.

(4) Users of protected works, who exploit such works under this Act without the non-exclusive assignment of rights, shall monthly submit to the competent collecting society the information regarding such exploitation.

(5) Persons referred to in Article 35 shall submit to the competent collecting society the information which is necessary for the calculation of the remuneration due, such as type and number of sold originals, liable persons and retail price net of tax, within 30 days after the sale of the original of a work of fine art.

Article 160
Supervision by
members

(1) Each member of the collecting society may demand to receive, in the time limit provided for in the statute, the annual financial report and the report of the supervisory board, for inspection.

(2) At least one tenth of the full members of a collecting society may demand that one or more than one independent experts inspect the operation of the society, unless such inspection has already been carried out on the basis of this provision for the current year.

Article 161
Annual reports and audits

(1) Within six months following the end of each accounting year, the collecting society shall adopt or acquire:

1. annual reports of administrative and supervisory bodies on collected remunerations, distribution thereof, operation of the collecting society and implementation of inclusive agreements and agreements with foreign collecting societies;
2. the report of auditing company on the auditing of financial statements, together with the opinion of an authorized auditor on regularity of the operation and its conformity with this Act, internal acts of the collecting society and its concluded agreements;
3. the opinion of administrative and supervisory bodies on the report and opinion referred to in the foregoing item;
4. measures in the event of the auditor's opinion on its irregularity;
5. proposal for the financing plan and operating costs of the collecting society for the coming year.

(2) Provisions of this Article shall be without prejudice to obligations of collecting societies which they have with respect to financial reports and audits pursuant to other regulations.

Article 162 **Supervision by the competent authority**

(1) The competent authority shall supervise whether collecting societies execute their tasks in compliance with the provisions of this Act.

(2) The competent authority may, at all times, demand from a collecting society reports on business matters and inspection into their books and other business papers to the extent necessary, following a reasoned and detailed written request to examine the issue specified in the request.

(3) Collecting societies shall inform the competent authority of any change concerning the persons entitled by law or statutes to represent them.

(4) Collecting societies shall submit to the competent authority, in particular:

- I. any amendment to the statute;
2. inclusive agreements with associations of users;
3. tariffs and any alterations thereof;
4. agreements with foreign collecting societies;
5. resolutions of the assembly;
6. annual reports and the report of auditing company, together with the opinion of an authorized auditor on regularity of the operation and its conformity with this Act, internal acts of the collecting society and its concluded agreements.

Article 162a

Measures in the case of infringements by collecting societies

(1) The competent authority shall order, by way of a decision, the collecting society to correct, within a set period, any observed infringements of the provisions of this Act.

(2) The competent authority shall withdraw by way of a decision an authorization issued, when:

I. circumstances arise, which would constitute grounds for refusal to issue authorization,

2. the collecting society fails to perform its activities in compliance with Article 146 of this Act, 3. the collecting society has committed repeated infringements of the provisions of this Act.

The withdrawal of authorization shall become effective on the 30th day following the publication of a notice on withdrawal of authorization in the Official Gazette of the Republic of Slovenia.

(3) The competent authority may express, along with a decision on withdrawal of authorization, that the withdrawal of authorization will not be implemented, provided that the collecting society corrects the observed infringements within a set period, and provided that it does not commit a new infringement within this period, such that would constitute grounds for withdrawal of authorization. The competent authority will revoke a conditional withdrawal of authorization and withdraw the authorization, should the collecting society not correct the observed infringements within the period of probation, or should it commit a new infringement that would constitute grounds for withdrawal of authorization.

(4) The competent authority may not issue a decision referred to in paragraphs (2) and (3) of this Article, had it not previously ordered the collecting society to correct the observed infringements.

(5) The provisions of the Act regulating general administrative procedure shall apply, *mutatis mutandis*, in the proceedings under this Article. No complaint shall be permitted against a

decision of the competent authority; however, an action shall be possible in an administrative dispute, on which the Administrative Court will decide at its seat.

Article 163

Mediation

(1) Collecting societies and representative associations of users may propose, on the basis of a mediation agreement, mediation in a dispute concerning conclusion of an inclusive agreement for cable retransmission of broadcasts.

(2) The mediation referred to in paragraph (2) of Article 166c may be requested without a mediation agreement. The provisions regarding mediation between a collecting society and a representative association of users shall apply, *mutatis mutandis*, in such

mediation procedures.

(3) The mediator shall be independent, impartial and not bound by instructions.

(4) The mediator shall ensure that parties conduct negotiations in good faith and do not hinder them without valid justification.

(5) The mediator may submit proposal to parties concerning the settlement of the dispute. The settlement proposal shall be deemed to have been accepted if neither party objects within three months following the receipt of the proposal.

(6) The secrecy shall be ensured in the mediation procedure.

(7) The parties shall jointly choose the mediator from the list of mediators appointed by the Government of the Republic of Slovenia on the proposal of the Minister of Economy.

(8) The competent authority shall provide administrative assistance to mediator.

(9) The parties shall remunerate the mediator for his work.

(10) The Government of the Republic of Slovenia shall define with a decree, in greater detail, the mediation procedure, as well as the degree and kind of education of the mediator, and other conditions that he has to fulfil.

Chapter VII **PROTECTION OF RIGHTS**

Section I General provisions

Article 164 Persons entitled to protection

(1) The person whose rights under this Act were infringed (the right holder), may demand the protection of his rights and claim restitution from the infringer (the infringer), according to the rules on damages, unless otherwise provided by this Act.

(2) The same protection may be claimed by a right holder, when there is apparent danger that an infringement of the rights under this Act will occur.

Article 165 Joinder of parties

(1) When there are more right holders of a right granted by this Act, each of them may claim the protection of this right in its entirety.

(2) When there are more infringers of a right granted by this Act, each of them is liable for total damages.

Article 166 **Protection of rights-management information**

(1) It shall be deemed that a person infringes the exclusive rights granted by this Act, when it commits any of the following acts by which it induces, enables, facilitates or conceals the infringements of the rights under this Act:

1. the removal or alteration of any electronic rights-management information;
2. the reproduction, distribution, importation for distribution, rental or communication to the public of a copyright work or subject matter of related rights, where electronic rights-management information has been removed or altered without authority.

(2) Rights-management information as mentioned in the foregoing paragraph, means any information provided by rightholders on the identification of the subject matter of rights, the author, the rightholder, the terms and conditions for use, and their relevant numbers and codes, when they are indicated on a copy of a copyright work or subject matter of related rights or when they appear in connection with their communication to the public.«

Article 166a **Technological measures**

(1) It shall be deemed that a person infringes the exclusive rights granted by this Act, when he circumvents effective technological measures designed to protect authors' works or subject matters of related rights.

(2) It shall be deemed that a person infringes the exclusive rights granted by this Act, when he manufactures, imports, distributes, sells, rents, advertises for sale or rental, or possesses for commercial purposes technologies, devices, products, components or computer programs or provides services which:

1. are promoted, advertised or marketed for the purpose of the circumvention of effective technological measures, or
2. have only a limited commercially significant purpose or use other than to circumvent effective technological measures, or
3. are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technological measures.

(3) "Technological measures" within the meaning of this Article shall mean any

technology, device, product, component or computer program or other measure that, in the normal course of its operation, is designed to prevent or restrict acts which are not authorised by the holder of rights under this Act. These measures shall be deemed effective where the use of a copyright work or subject matter of related rights is controlled by the right holders through application of an access control or protection process such as encryption, scrambling or other transformation of the work, or a copy control mechanism, which achieves the protection objective.

(4) This Article shall apply *mutatis mutandis* also to any technology, device, product, component or computer program by which electronic rights-management information referred to in Article 166 is removed or altered.

(5) The acts referred to in foregoing paragraphs shall not be deemed infringements if they are carried out in certain special cases of performance of tasks relating to public security, or in order to ensure the correct execution of any official proceedings, such as proceedings in the National Assembly or National Council of the Republic of Slovenia, or judicial, administrative or arbitrary proceedings.

Article 166b **Obligation to use markings**

In the case of technological measures pursuant to the provisions of this Act, the right holder or importer shall be bound put a clearly visible marking on each copy of a copyright work or subject matter of related rights manufactured or imported for commercial purposes, indicating:

1. information concerning the technological measure and its effects, and
2. his firm and address in order to ensure an effective implementation of Article 166c(1).

Article 166c **Enforcement of the limitations to rights**

(1) The right holder who uses technological measures pursuant to this Act, shall make available to the persons having legal access to the subject matter of rights, at their request and without delay, appropriate means on the basis of which they can enforce the limitations to copyright and related rights listed in paragraph 3.

(2) If the right holder fails to secure the means referred to in paragraph 1, the persons concerned may request a mediation in the dispute.

(3) Limitations to rights pursuant to paragraph 1 shall be provided, under conditions laid down by this Act, including eventual payment of remuneration, in the following cases:

1. use for the benefit of people with a disability (Article 47a);
2. use for the purpose of teaching (Article 49);

3. private and other internal reproduction (Article 50);
4. performance of official proceedings (Article 56);
5. ephemeral recordings made by broadcasting organisations (Article 77(2)).

(4) Paragraphs 1,2 and 3 shall not apply to technological measures that are used for:

1. fulfilment of a right holder's obligation under paragraph 1 and the implementation of agreements concluded for this purpose;
2. protected works that are used, on the basis of an appropriate contract, within the meaning of Article 32a.

Section II **Judicial protection**

Article 167 **Claims**

(1) When the exclusive rights granted by this Act were infringed, the right holder may claim that:

1. the infringement already commenced and future infringements be prohibited;
2. the objects of infringement be recalled from the channels of commerce, taking account of the interests of bona fide third parties;
3. the situation caused by the infringement be rectified;
4. the objects of infringement be irrevocably removed from the channels of commerce;
5. the objects of infringement be destroyed;
6. the means of infringement that are owned by the infringer and intended or used exclusively or principally for infringement be destroyed;
7. the objects of infringement be surrendered to the right holder against the reimbursement of the costs of their production;
8. the judgment be published.

(2) In deciding on the claims referred to in paragraph 1(2.) to (7.), the court shall take account of the circumstances of the case, in particular proportionality between the seriousness of the infringement and the claim, as well as the interest of the right holder to ensure an effective protection of rights. Provisions of paragraph 1(3.) and (5.) shall not apply to architectural buildings, unless the destruction of the building is dictated by the circumstances of the case.

(3) In proceedings against a person whose services have been used to infringe the right, and the existence of such infringement has already been finally established in proceedings against the third party, the infringement shall be presumed to exist.

Article 168
Compensation for damage and punitive damages

(1) For infringements under this Act, general rules governing causation of damage shall be applicable, unless otherwise provided by this Act.

(2) The infringer shall pay to the right holder damages in the amount to be defined under general rules on compensation for damage, or in the amount which is equal to agreed or customary royalty or remuneration for legitimate use of such kind.

(3) If a right under this Act was infringed intentionally or by gross negligence, the right holder may claim the payment of agreed or customary royalty or remuneration for such use, increased by up to 200 %, irrespective of whether he suffered actual pecuniary damage because of such infringement.

(4) When deciding on the claim for the award of punitive damages and setting of their amount, the court shall take into account all circumstances of the case, and in particular, the degree of culpability of the infringer, the amount of agreed or customary remuneration, and the achievement of a general preventive purpose sought by the award of punitive damages.

(5) In case that the actual damage is in excess of the amount of punitive damages mentioned in the paragraph 4, the right holder has a right to claim the difference to full actual damages.

Article 169
Monetary satisfaction for non-material damage

Irrespective of any pecuniary damages recovered, or even if there is no material loss suffered, the court may award to an author or a performer equitable monetary satisfaction for the mental anguish and suffering endured as a consequence of the infringement of his moral rights, if the court finds that the circumstances of the case, and especially the degree of suffering and its duration so dictate.

Article 170
Provisional measures

(1) The court shall order provisional measures to secure non-monetary claims under this Act if the right holder shows probable grounds for belief that:

1. he/she is the right holder according to this Act, and
2. his/her right has been infringed or there exists an actual danger to be infringed.

(2) The right holder shall also show probable grounds for belief that:

1. a danger exists that the enforcement of claims will be made impossible or rather difficult;
2. the adoption of a provisional measure is necessary to avoid damage

difficult to repair; or

3. a provisional measure, which may prove unfounded in the course of the proceedings, does not have more detrimental consequences for the alleged infringer that would have the non-adoption of such measure for the right holder.

(3) The right holder who proposes the order of a provisional measure without prior notification and hearing of the opposite party shall show probable grounds for belief, in addition to the requirements of paragraphs 1 and 2, that any delay of the order is likely to cause him/her a damage difficult to repair. In that event, the opposite party shall be given notice after the execution of the order at the latest.

(4) The right holder shall not be obliged to prove the existence of a danger that the enforcement of claims will be made impossible or rather difficult if he/she shows probable grounds for belief that the proposed provisional measure would cause the infringer only insignificant damage. The danger shall be deemed to exist when the claims are to be enforced abroad, with the exception of Member States of the European Union.

(5) The court may order any provisional measure to secure non-monetary claims referred to in paragraph 1, with which the purpose of security can be achieved, in particular:

1. to interdict to the alleged infringer the continuation of infringement already commenced and future infringements;
2. to seize, exclude from circulation and take into custody the objects of infringement and the means of infringement that are intended or used exclusively or principally for infringement.

(6) The court shall decide on the opposition against a decision on the adoption of a provisional measure within 30 days following the filing of the answer to the opposition, or by the end of the time limit set for the filing of the answer to the opposition.

(7) The provisions of the Act regulating execution of judgements and insurance of claims shall apply to the proceedings for the adoption of provisional measures, unless otherwise provided by this Act. Proceedings shall be expeditious.

Article 171 **Preservation of evidence**

(1) The court shall issue an order to preserve evidence if the right holder presents reasonably available evidence that:

1. he/she is the right holder according to this Act;
2. his/her right has been infringed or that there exists an actual danger to be infringed;
and
3. evidence of infringement will be destroyed or that it will be impossible to take such evidence at a later time.

(2) The right holder who requests the order to preserve evidence without prior notification and hearing of the opposite party shall show probable grounds for belief, in addition to the requirements of paragraph 1, that there is a danger of evidence of infringement being destroyed as the result of conduct of the opposite party or that it will be impossible to take such evidence at a later time. In that event, the opposite party shall be given notice after the execution of the order at the latest.

(3) The court may issue the order referred to in paragraph 1 to take any evidence, and in particular:

1. to inspect places, business records, inventory, databases, computer memory units or other things;
2. to seize samples of the objects of infringement;
3. to examine and seize documents;
4. to appoint and examine experts; and
5. to examine witnesses.

(4) Preservation of evidence may be requested even after the decision by which the proceedings are completed has become final, if this is necessary before or during the proceedings with extraordinary remedies.

(5) The provisions concerning provisional measures of the Act regulating execution of judgements and insurance of claims shall apply mutatis mutandis to the proceedings for

preservation of evidence under this Article, unless otherwise provided by this Act. Proceedings shall be expeditious.

(6) Where it is subsequently found that the request for preservation of evidence has been unfounded or that the right holder has not justified it, the opposite party shall have the right to claim:

1. the return of the seized objects;
2. the prohibition of the use of information obtained; and
3. the compensation for damage.

(7) In the proceedings for preservation of evidence in accordance with this Article, the court shall ensure that confidential information from the parties be protected and that judicial proceedings not be used in bad faith with the sole purpose to obtain confidential information from the opposite party.

Article 172

Duty to provide information

(1) In the proceedings concerning the infringement of rights the court may, upon a justified request of the party, order that information on the origin and distribution

networks of the goods or services which infringe a right under this Act be provided by the alleged infringer.

(2) The court may order that information referred to in paragraph 1 be provided also by persons who:

1. possess the infringing goods on a commercial scale;
2. use the infringing services on a commercial scale; or
3. provide on a commercial scale services used in an infringing activity.

An act shall be deemed to be performed on a commercial scale if it has been performed for direct or indirect economic advantage.

(3) The court may order that information referred to in paragraph 1 be provided also by the person who was indicated by any person referred to in paragraph 2 as being involved in the production, manufacture or distribution of the infringing goods or the provision of the infringing services.

(4) The information referred to in paragraph 1 may comprise:

1. the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as the intended wholesalers and retailers; and
2. information on the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the goods or services in question.

Article 173 **Presentation of evidence**

(1) If the court decides to take the proposed evidence and that evidence is in the possession of the opposite party, that party shall present such evidence at the request of the court.

(2) Paragraph 1 shall also be applicable for banking, financial and commercial documents under the control of the opposite party if the infringement was committed on a commercial scale.

(3) The provisions of the Act regulating civil procedure shall apply to the proceedings for the presentation of evidence, unless otherwise provided by this Act.

(4) After the taking of evidence referred to in paragraph 1, the court shall ensure that confidential information from the parties to the proceedings be protected and that judicial proceedings not be used in bad faith with the sole purpose to obtain confidential information from the opposite party.

Section III
Measures for the enforcement of protection

Article 174
Register

(1) To preserve the evidence or for other reasons, the holders of rights granted by this Act, may register their works or deposit the originals or reproductions of their works, phonograms, videograms, or subject matters of some other right with the organization authorized for this purpose.

(2) Until proven otherwise, it shall be presumed that the rights in registered works exist and belong to the person designated in such register as their holder.

(3) There shall be one public register for a given category of works for the whole state, and shall be kept by an organization specially authorized for that purpose by the Office.

(4) In case of doubt whether a given work can be considered as a work of copyright, the organization mentioned in the foregoing paragraph shall give an opinion.

(5) Provisions of this Article do not affect in any way the existence and protection of rights under this Act.

Article 175
Symbols and notices of reserved exclusive rights

(1) Holders of exclusive authors' rights under this Act shall have the right to put a notice on the original or copies of their works, consisting of the symbol ©, accompanied by their name or firm name and year date of the first publication.

(2) Holders of exclusive rights to phonograms under this Act, shall have the right to put a notice on the original or copies of their published phonograms or on their containers, consisting of the symbol ® accompanied by their name or firm name and year date of the first publication.

(3) Until proven otherwise, it shall be presumed that the exclusive rights in works or phonograms that bear notices mentioned in this Article exist and belong to the person designated therein.

(4) Provisions of this Article do not affect in any way the existence and protection of rights under this Act.

Chapter VIII
RELATIONS WITH FOREIGN ELEMENTS

Article 176
General provision

(1) The provisions of this Act shall protect the authors and holders of related rights who are citizens of the Republic of Slovenia or a European Union Member State, or have their residence or seat in the Republic of Slovenia.

(2) Other foreign natural persons or legal entities (foreigners) shall enjoy the same protection as persons mentioned in the foregoing paragraph if international convention or this Act so provides, or in case that factual reciprocity exists.

(3) Regardless of the provisions of this Chapter, foreigners shall enjoy the protection according to this Act:

1. with respect to moral rights - in any case;
2. with respect to resale right and the right to remuneration for private and other internal reproduction - only if factual reciprocity exists.

(4) Reciprocity must be proved by the person basing his claim on it.

(5) Provision of this Act relating to the European Union Member States shall apply also to the European Economic Area Member States.

Article 177
Authors

(1) The protection under this Act shall enjoy the authors:

1. who are domiciled in the Republic of Slovenia;
2. with respect to their works published for the first time in the Republic of Slovenia or within 30 days of having been published in another country;
3. with respect to audiovisual works whose producer has his corporate seat or domicile in the Republic of Slovenia;

4. with respect to works of architecture and fine arts, which are as immovables or as a firm integral part of immovable property located on the territory of the Republic of Slovenia.

(2) If the work was created by several authors, the provision of this Act shall protect all of them if at least one author meets one of the conditions enumerated in the foregoing paragraph.

Article 178

Performers

(1) The protection under this Act shall enjoy the performers:

1. who are domiciled in the Republic of Slovenia;
2. whose performances take place on the territory of the Republic of Slovenia;
3. whose performances are fixed on phonograms that are protected under this Act;
4. whose performances are incorporated, without having been fixed on phonograms, in radio broadcasts that are protected under this Act.

(2) If more performers take part in a performance, the provisions of this Act shall protect all of them if at least one performer is a citizen of the Republic of Slovenia or is domiciled in the Republic of Slovenia.

Article 179

Producers of phonograms, film producers, and publishers

(1) The protection under this Act shall enjoy the producers of phonograms and film producers if their phonogram or videogram was first fixed in the Republic of Slovenia.

(2) The provisions of this Act shall also protect the publishers with respect to their related rights if their edition was first published in the Republic of Slovenia or within 30 days of having been published in another country.

Article 180

Broadcasting organizations

The protection under this Act shall enjoy the broadcasting organizations that transmit their broadcast from transmitters located on the territory of the Republic of Slovenia.

Article 181

Comparison of terms of protection

The terms of protection laid down in this Act shall apply to foreign holders of related rights that enjoy protection under this Act, however, they shall expire on the day when the protection expires in the country of which these holders are citizens, or where their corporate seat is located, and cannot exceed the terms set by this Act.

Article 182

Communication to the public by satellite

(1) The protection under this Act shall enjoy the authors and holders of related rights, whose work or subject matter of related rights is communicated to the public by satellite, when under the control and responsibility of a broadcasting organization the relevant program-carrying signals are sent from the territory of the Republic of Slovenia, into an uninterrupted chain of communication, to a satellite and down to the Earth.

(2) The protection granted by this Act applies also when the condition from the foregoing paragraph is not fulfilled, however:

1. the uplink station from which program-carrying signals are transmitted is located in the Republic of Slovenia, or
2. the broadcasting organization which commissioned the communication to the public by satellite has its corporate seat in the Republic of Slovenia.

Article 183 **Statelesspersons and refugees**

(1) Authors and holders of related rights that have no citizenship or whose citizenship cannot be determined, shall enjoy the same protection under this Act as the citizens of the Republic of Slovenia, if they are domiciled in it.

(2) If they are not domiciled in the Republic of Slovenia or if their domicile cannot be determined, they shall enjoy the same protection as citizens of the Republic of Slovenia, if they have their residence in it.

(3) If they have neither their domicile nor residence in the Republic of Slovenia, they shall enjoy the same protection as citizens of the state in which they do have their domicile or residence.

(4) Provisions of this Article shall apply equally to authors and holders of related rights, having the status of a refugee under international treaties or laws of the Republic of Slovenia.

Chapter IX **PENAL PROVISIONS**

Article 184

(1) A fine of no less than SIT 400,000 shall be imposed for a misdemeanor on any legal entity or individual sole trader who:

1. without the assignment of the relevant economic right, when such assignment is required under this Act, reproduces, distributes, rents, publicly performs, publicly transmits, publicly communicates, publicly presents, broadcasts, rebroadcasts, secondary broadcasts, makes available to the public, transforms or audiovisually adapts or otherwise uses a work or a copy thereof (Articles 21 and 22);

2. possesses a copy of a computer program for commercial purposes, knowing or having reason to believe that it is an infringing copy (Article 116(2.));

3. without the assignment of the relevant exclusive right, when such assignment is required under this Act, reproduces, fixes, publicly transmits or broadcasts a live performance, or reproduces, makes available to the public, distributes or rents a phonogram or video gram with a performance, or otherwise uses a performance (Article

121);

4. without the assignment of the relevant exclusive right, when such assignment is required under this Act, reproduces, distributes, rents, makes available to the public or otherwise uses a phonogram or videogram (Articles 129 and 134);

5. without the assignment of the relevant exclusive right, when such assignment is required under this Act, retransmits, fixes, reproduces, distributes, makes available to the public or otherwise uses a broadcast or a fixation of a broadcast (Article 137);

6. without the assignment of the relevant exclusive right, when such assignment is required under this Act, reproduces, distributes, rents, makes available to the public or otherwise uses a database or a copy thereof (Article 141c);

7. removes or alters any electronic rights-management information (Article 166(1)(1.);

8. reproduces, distributes, imports for distribution, rents or communicates to the public a copyright work or subject matter of related rights or a copy thereof where electronic rights-management information has been removed or altered without authorization (Article 166(1)(2.);

9. circumvents effective technological measures or manufactures, imports, distributes, sells, rents, advertises for sale or rental or possesses for commercial purposes a technology, device, product, component or computer program, or provides a service for the purpose of circumvention of effective technological measures in the cases referred to in Article 166a(2) ((Article 166a(1) and (2));

10. manufactures, imports, distributes, sells, rents, advertises for sale or rental or possesses for commercial purposes a technology, device, product, component or computer program for the removal or alteration of electronic rights-management information (Article 166a(4)).

(2) A fine of no less than SIT 80,000 shall be imposed on the responsible person of a legal entity or individual sole trader that commits a misdemeanor referred to in paragraph 1.

(3) A fine of no less than SIT 80,000 shall be imposed on an individual who commits a misdemeanor referred to in paragraph 1.

(4) The articles which were created by by the misdemeanor shall be confiscated.

(5) The misdemeanors under this Article shall be decided upon by emergency procedure.

(1) A fine of no less than SIT 200,000 shall be imposed for a misdemeanor on any legal entity or individual sole trader:

1. that does not submit to the competent collecting society, at its request and within the prescribed time limit, information about the types and number of sold or imported devices for sound or visual fixation, photocopying devices, blank audio or video carriers, as well as information about sold photocopies which is necessary for the calculation of the remuneration due (Article 38(4));

2. that does not submit to the competent collecting society, within the prescribed time limit, the list of works used (Article 159(1), (3), and (4));

3. that does not submit to the competent collecting society, within the prescribed time limit, the information which is necessary for the calculation of the remuneration due (type and number of sold originals, liable persons, retail price without public charges, etc.) (Article 159(5));

4. that does not make available to persons having legal access to the subject matter of rights the means on the basis of which they can enforce limitations to the copyright and related rights (Article 166c).

(2) A fine of no less than SIT 60,000 shall be imposed on the responsible person of a legal entity or of individual sole trader that commits a misdemeanor under paragraph 1.

(3) A fine of no less than SIT 60,000 shall be imposed on an individual who commits a misdemeanour under paragraph 1.

Article 186

(1) Supervisory control over the implementation of the provisions sanctionable under Articles 184 and 185 shall be the competence of the Market Inspection. The proceedings concerning these cases shall be expeditious.

(2) When the inspector learns of a misdemeanor referred to in paragraph 1 through official channels, he may:

1. seize the goods which were used or intended for the commission of a misdemeanor, or were created by such misdemeanor, and
2. order to remedy the irregularity within the prescribed time limit.

TRANSITIONAL AND FINAL PROVISIONS of Copyright and Related Rights Act of 30 March 1995

Article 187

(1) Provisions of this Act concerning the remuneration to be paid for private or other internal use (Articles 37. to 39.), shall take effect two years after the date of the enactment of this Act.

(2) The Government shall issue the regulations, mentioned in Article 39 (1) of this Act, within one year after the date of the enactment of this Act.

Article 188

Provisions of this Act concerning the remuneration for public communication of phonograms (Articles 122 and 130), shall take effect two years after the date of the enactment of this Act.

Article 189

(1) Organizations of authors that have collectively administered the rights according to Articles 91 and 93 of the Copyright Act (Official Gazette of SFRY, No. 19/1978, 24/1986, 2111990), before the enactment of this Act, may continue to do so without the permission of the Office, until the Office issues a permission for the collective administration of these same rights to a collecting society that meets the conditions required by this Act.

(2) Tariffs adopted by the organizations of authors before the enactment of this Act according to the provision of Article 91.a. of the Copyright Act, shall apply until the adoption of general or special tariffs according to Article 153 of this Act.

(3) If appropriate collecting societies are not formed within one year after the enactment of this Act, the Office may issue a temporary permission to a legal person that does not meet the conditions set forth in Article 149 of this Act, to administer collectively certain rights. Such authorization shall specify the time limit and conditions for such temporary administration of rights.

(4) The rights which pursuant to this Act can be administered only collectively, may be administered individually as long as the Office has not granted a permission for their collective administration or until a respective authors' collective agreement has not been entered into.

Article 190

Provisions of this Act shall not apply to contracts entered into, or acts of exploitation done before the date on which this Act becomes effective, unless otherwise provided by this Act.

Article 191

Provisions of this Act concerning computer programs and databases shall apply to computer programs and databases created before the date on which this Act becomes

effective, unless such application shall be prejudicial to contracts entered into or rights vested to that date.

Article 192

With respect to contracts for the use of works and subject matter of related rights that shall be in force on the date on which this Act becomes effective, the provisions of this Act concerning public communication by satellite shall begin to apply from January 1, 2000, provided such contract shall be in force at that time.

Article 193

(1) This Act applies to all works and performances of performers that were enjoying protection according to the Copyright Act (Official Gazette of the SFRY, No.19/1978, 24/1986,2111990), at the time of its enactment.

(2) This Act applies to phonograms of producers of phonograms, with respect to which the term of 20 years has not yet elapsed from the time of their first fixation to the enactment of this Act.

(3) This Act applies to videograms, broadcasts and publishers' editions, as subjects matters of related rights, which were first fixed, broadcast or lawfully published after its enactment.

(4) This Act applies to databases as subject matter of related rights, the making of which was completed after 1 January 1983.

Article 194

(1) On the date this Act enters into force, the Copyright Act (Official Gazette of the SFRY, No.19/1978, 24/1986, 21/1990), shall cease to apply.

(2) On the date this Act enters into force, the Self-Managerial Agreement on rights, obligations and responsibilities of publishing organizations and authors in their contractual relations (Official Gazette of the SRS, No. 7/1988), is repealed.

Article 195

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.

TRANSITIONAL AND FINAL PROVISIONS **of the Act of 26 January 2001 Amending the Copyright and Related Rights Act**

Article 31

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.

TRANSITIONAL AND FINAL PROVISIONS
of the Act of 9 April 2004 Amending the Copyright and Related Rights Act

Article 24

(1) As of the date of the accession of the Republic of Slovenia to the European Union, the terms of protection under the Copyright and Related Rights Act (Official Gazette of the RS Nos 21/95 and 9/01) shall also be applicable to those copyright works and subject matters of related rights that are not protected under Article 193(1), (2) and (3) if they are protected on that date in at least one European Union Member State.

(2) Paragraph 2 shall be without prejudice to acts of exploitation of protected works started or performed before the date referred to in paragraph 1. The user may:

1. without limit and gratuitously distribute stocks that existed before that date, and
2. request a reassignment of economic rights in the original extent, but only for the period of three years following that date and against payment of an adequate remuneration.

(3) The rights which were assigned for the whole period of their duration by contract or otherwise before the date referred to in paragraph 1, shall be deemed to be assigned under present conditions also for the additional period of the revival of protection.

(4) The existence of protection of a right in a European Union Member State shall be proved by the person who invokes it.

Article 25

Provisions of this Act concerning exhaustion of the right of distribution (Article 4 of this Act) and relations with foreign elements (Article 20 of this Act) shall take effect as of the date of the accession of the Republic of Slovenia to the European Union.

Article 26

(1) Collecting societies shall harmonize their activity with the provisions of this Act within one year following the entry into force of this Act.

(2) Proceedings for the grant of authorisation for collective management of copyright and related rights that have not been finished on the date of entry into force of this Act shall continue according to the provisions of this Act.

(3) Proceeding for the approval of tariffs that have not been finished on the date of entry into force of this Act shall be terminated.

(4) The tariffs of collecting societies applicable on the date of entry into force of this Act shall be treated as valid inclusive agreements under this Act.

Article 27

(1) In proceedings concerning misdemeanors, the fines defined by this Act shall be imposed, until the application date of the new Misdemeanors Act (Official Gazette RS No 7/03), as monetary fines within the limits set out by Articles 21 and 22 of this Act.

(2) For the responsible person of the individual sole trader, the provisions of Articles 21 and 22 of this Act shall be applicable as from 1 January 2005.

Article 28

The executive regulation referred to in Article 163 shall be issued within six months following the entry into force of this Act.

Article 29

(1) This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.

(2) The provisions of Articles 4, 16, 20, 24 and 25 of this Act shall be applicable as from the date of the accession of the Republic of Slovenia to the European Union.

TRANSITIONAL AND FINAL PROVISIONS of the Act of 1 February 2006 Amending the Copyright and Related Rights Act

Article 16

Proceedings which are pending pursuant to Section II of Chapter VII at the time when this Act becomes effective shall be terminated according to the provisions of this Act applicable hitherto.

Article 17

Until the introduction of the euro as the monetary unit of the Republic of Slovenia, the amounts in euros listed in Article 35 shall be converted into the Slovenian tolar equivalent at the middle exchange rate of the Bank of Slovenia valid on the date of sale of the original of a work of fine art.

Article 18

The Government of the Republic of Slovenia shall issue the decree referred to in Article 163a within three months following the entry into force of this Act.

Article 19

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.

TRANSITIONAL AND FINAL PROVISIONS of the Act of 15 December 2006 Amending the Copyright and Related Rights Act

Article 15

The minister competent for economy shall appoint the chairman and members of the Board referred to in Article 157.f within nine months following the entry into force of this Act.

Article 16

Arbitration proceedings which are pending pursuant to Article 163.a at the time when this Act becomes effective shall be terminated according to the provisions of the Act applicable hitherto.

Article 17

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia.