

ALBANIA

THE LAW

Nr.9380, Date 28.4.2005

**THE COPYRIGHT AND OTHER RIGHTS
RELATED TO IT**

Pursuant of the Article 78 and Article 83, paragraph 1, of the Albanian Constitution,
on the proposal of the Council of Ministers,

**THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA**

D E C I D E D:

PART ONE

GENERAL PROVISIONS

ARTICLE 1

THE SCOPE

This Law aims at the protection of the Copyright and the other rights related to it.

ARTICLE 2

THE OBJECT

The Law on the “Copyright and the neighbouring rights” defines the rights and the obligations for the subjects participating in creative, productive or commercial activity as well as in any other mode of evaluation, exploitation, use or alienation of literary, artistic or scientific works.

ARTICLE 3

THE SUBJECTS AND THE AREA OF THE APPLICATION

1. Copyright is applied over natural or legal persons, both Albanian and foreign, who exercise creative, productive or commercial activity as well as any mode of evaluation, exploitation, use or alienation of literary, artistic or scientific works, covering the territory of the Republic of Albania.

2. The dispositions of this Law are applied over:

2.1. The works:

- a) not being publicly presented and having Albanian citizens as authors;
- b) not being presented in the public and their authors are natural persons living or resident in the Republic of Albania;
- c) being performed to the public of the Republic of Albania or they are performed abroad, and within 30 days, they are performed in the Republic of Albania.
- ç) of foreign authors, being first available at their own country or at a third country and, within 30 days, they have been presented at the Republic of Albania as well;
- d) architectural works being built within the territory of the Republic of Albania.

2.2.the performs and presentations of artists and/or interpreters:

- a) living in the territory of the Republic of Albania;
- b) whose performs are recorded on sound carriers, object of protection under this Law;
- c) being for the first time presented and/or performed to the public of the Republic of Albania or being available, not later than 30 days, in the Republic of Albania as well.

2.3.sounds records:

- a) realised by producers, natural or legal persons living or resident in the Republic of Albania;
- b) when the first recording, in any mode of material, is produced for the first time in the Republic of Albania;
- c) already being available to the public of the Republic of Albania or they have been previously available in another country and, at the same time, within 30 days, they are available in the Republic of Albania as well.

1.4.radio and television programmes:

- a) broadcasted by the organisations of radios and televisions, having seats in the Republic of Albania;
- b) broadcasted by emitting stations situated in the territory of the Republic of Albania.

3.The use of intellectual property works in the field of art, culture and science, being created prior the time this law enters into power, is made in pursuant of

this law dispositions and of the international agreements where Republic of Albania is party member.

ARTICLE 4

DEFINITIONS

For the purposes of this Law, the terms used herein have the following meaning:

1. **artistic work** means any original, intellectual creation of a natural person, being materialised, despite of the form or way of expression, aiming at human's feeling touch.
2. **derivative artistic work** is any intellectual, which derives by an original work without violating it.
3. **anonymous work** means any work made available to the public under a pseudonym or anonymously.
4. **work of applied art** is any artistic work applied over usable stuff/objects, handcrafted or of industrial production.
5. **Architectural work** is any creative work in the field of construction where there are included blueprints, sketches, plans and other related to architecture.
6. **Audiovisual work** means that work involving the human's sense of see and hear, meaning a series of view sequences, joined and uninterrupted, accompanied by sounds, recorded to be displayed by apparatus available for transmitting such pictures and sounds.
7. **Choreographic work** is the composition of movements created for dance performance or any other designed movements' composition mainly created to follow-up the musical work.
8. **Cinematographic work** is any sequence, of fixed picture over a carrier or transparent celluloid stripe, sensible to light, eligible to be screened as a moving picture.
9. **Theatrical work** is the artistic creation of a completed text, stage, musical text or librettos, available to be presented live in the public.
10. **Joint authorship** means the joining or socialisation of some authors in the creation of a work.
11. **Copying of a work** is the reproduction of a work expressed in a material form.
12. **Dialogue** is the component of a literary, drama or cinematographic work taking the shape of a conversation.
13. **Drama work** means the combination of stagy movements with dialogues and monologues (soliloquies) of one or more characters, created to be performed on stage by transmitting a certain reality through their interpretation.
14. **Drawing** is the creation presenting an object and/or fictional pieces realised by lines.
15. **Engravings** is the artistic work being created by etching on metal, stone, wood , linoleum (wax-cloth).
16. **Mime** is the dramatic action, expressed by gesticulations, movements or pantomimes, without uttering any word.
17. **Exposition of an artistic work** means the public presentation, in a direct form, of an original work.
18. **Folklor (folk art)** means the entirety of folkloric works composed of artistic traditional components, perpetuated and created by a

- community or individual of this community, which reflects the cultural and artistic values and the heritage of this community.
19. **Graphic work** is an artistic work created by drawing lines or by using colours on a flat surface displaying a drawing, a painting and even an engraving.
 20. **Lithography** is an artistic work created by lineation of a drawing on a special type of stone or metal with the purpose of reproducing it through paint.
 21. **Musical work.** These works contain all the kinds of sounds' combinations (composed) with or without text, lines or libretto, intended to be executed through musical instruments or human voice and/or both.
 22. **Original** work means in material form that emerges when the creation is fixed for the first time. As regards the writings, the original is the manuscript.
 23. **Personal use** means making a single copy, one reproduction, one translation, one adaptation or transformation of the work of others, only for personal use, for study necessity or for its personal satisfaction.
 24. **Photographic work** is the image of the objects of reality, produced on a surface sensitive to the light or to other radiant nature.
 25. **Dubbing** is the substitution of an actor's voice in an audio or audiovisual work with the voice and /or movement of another actor.
 26. **Pseudonym** is a fictitious name selected by an author for representing the authorship of the work without revealing his true identity.
 27. **Publisher** is the natural or legal person that undertakes the initiative and realises under his own responsibility the publication of a work, its mechanic reproduction and making it available to the public through any means and tools.
 28. **Screenplay** is the text written for an audiovisual work.
 29. **Scenic screenplay** is the completion of a literary screenplay of a cinematographic work or of any other form of work containing detailed descriptions of the characters, of the scenery, providing useful guidelines and defining the sounds effects.
 30. **Sculpture** is an artistic work representing, either in abstract or realistic form, a figure in three-dimensional form.
 31. **Design** is the preliminary version of an outline, of a picture, sculpture, literary, scientific or musical work.
 32. **Translation** is the written or oral presentation of a text into language other than the original.
 33. **Video gram** means the background where the audiovisual work is fixed and produced, provided with or without a sound enabling the transmission or reproduction of the work.
 34. **Video tape** is the tape containing the audiovisual fixing.
 35. **Database** comprises the collection of the works and of independent, various data or of other materials listed in alphabetical order and under a defined method, which are accessible to everyone via electronic or other means. Exclusion from this definition are the computer software used to create or make available the data base electronically accessible.
 36. **Communication to the public** means any action by which one or more individuals realise the immaterial use of the work.
 37. **Communication via satellite** means any intercession (interfering) act to the programme carrying signals to be received by the public, in a chain satellite broadcasted earthward., under the responsibility and control of the broadcasting organisation.

38. **Broadcasting** will mean the production of the communicating signals intended for satellite programmes, when the reception of these signals by the public is realised only through a broadcasting organisation and not through the organisation of the origin.
39. **Reproduction of work** means the fixing of an original work onto a carrier to be broadcasted to the public.
40. **Distribution of the work** is the availability of the original or copied work by the public through selling, donation, inheritance, lending or renting.
41. **Rental of a work** means making available for use of the original or copied works, for a limited time of period and for direct or indirect economic or commercial profit.
42. **Lending of works** means making available for use of the original or copies of the works, for a limited time of period and for direct or indirect economic or commercial profit.
43. **Computer software** means the detailed description of the computer programs, which defines the guidelines on how to use the program and the other supporting materials, in the instructing form, being created to help to understand or use the program.
44. **Cable transmission or through cable** means the uninterrupted transmission, continuous, and at the same time, by means of cable or through the microwaves transmission system, of the radio and television programmes to be received by the public by the wire or wireless.

CHAPTER I

THE AUTHOR OF THE WORK

ARTICLE 5

Authorship

1. The author/s is the natural person that create a literary, artistic or scientific work.
2. Until proved otherwise, the person whose name is inscribed in the work made available to the public for the first time, shall be considered its natural author or group of authors.
3. Until the identity of the author is disclosed, the copyright will be exercised by the natural or legal person, who for the first time made the work available to the public anonymously or under the pseudonym.

ARTICLE 6

Co-authors

1. A joint work is the creative work of some authors in cooperation.
2. Co-authorship is reached through an agreement between authors or based on the dispositions of the Civil Law of the Republic of Albania.
3. The copyright over joint work is granted to all authors, who have agreed one among them as the main author.
4. The authors of a joint work make use of the work upon an agreement among themselves. Every author should find a reasonable ground to object the agreement.
5. Each of the joint authors enjoys the copyright to individual use of the his own contribution, unless the authors have agreed otherwise and if this does not hinder the use of the work as a whole provided that they must not abuse by making use of the work as a whole.
6. In the case of exploitation of the work created in cooperation, the co-authors, according to the agreement between them, enjoys the right for remuneration in the extent and conditions agreed between themselves. If this agreement does not exist, the remuneration shall be divided according to the contribution of each co-author, or in equal parts, when the amount of the individual contribution can't be determined.

CHAPTER II

THE OBJECT OF THE COPYRIGHT

ARTICLE 7

The object

The object of the copyright in the field of literature, art or science, product of creative work of human mind, without taking into account the way of creation, means or practical forms of expressions and apart from their values or destinations , are:

- a. the literary and newspaper writings, lectures, religious prayers as well as any other oral or written creation, and the computer programs;
- b. oral and written scientific creativity, such as for example: the scientific lectures, studies, university lectures, teaching books, the scientific projects and documentation;
- c. musical compositions, either in written or oral form;
- d. drama creations, drama-musical creations, choreographic creations and the pantomimes;
- e. cinematographic and other audio-visual creations;
- f. photographic creations and any other kind of creation expressed in forms similar to photos;
- g. creations of fine arts;
- h. applied art works;
- i. architectural creations, including designs, projects, tracing in a diminution scale and graphical creations in the architectural projects;
- j. three-dimensional creations, maps and drawings in the topography, geography fields, and in the field of science in general.

ARTICLE 8

The derived works

1. The following shall also be considered object of copyright:

a) The derived works, which, without prejudice to the copyright of an author's work, originate from one or some other works existed in the past, particularly: translations, adaptations, illustrations, documentary creations, musical arrangements, and any kind of transformation of a literary, artistic or scientific work that is a product of the creative mind operation.

b) Collections of works, contributions, databases or other materials which, because of selection or arrangement of their contents, constitute the author's own intellectual private creation, shall be protected as such by copyright. This protection is not applicable for the content of the collection and does not harm the existing rights on the content.

2. The protection of a database work is not applicable over computer programs being used in making or operating the databases accessible by electronic means.

ARTICLE 9

Exception cases

The following are not object of the copyright and does not enjoy the protection according to this law:

- a) the ideas, theories, concepts, discoveries and inventions in a creative work, apart from the way of acquiring, explanation or expression;
- b) the official texts of a legal, administrative, legislative, political nature and their respective official translations;
- c) the official symbols of the state, symbols of other public organizations and public authorities, as for instance: the weapons, seal, flag, emblem, medallion, distinctive, medal;
- d) the payment's means;
- e) news and press information;
- f) simple data and facts.
- g) Folk expressions.

CHAPTER III

THE CONTENT OF THE COPYRIGHT

SECTION I

ARTICLE 10

Personal non-property rights

The author of a work enjoys the following personal non-property rights:

- a) to decide on how and when his/her work shall be available to the public and the place where the work shall be presented for the first time to the public;
- b) to ask for recognition of his authorship of the work, particularly asking for his name appearing on his copied works, and upon the tradition and the usual practice, the name should be attached to the work when it is presented publicly.
- c) to decide on whose name the work shall be available to the public, and the right to be anonymous;
- d) to ask for respecting the integrity of the work and to object any extraction or alteration that prejudices his honour and name.
- e) to withdraw the permission for the exploitation of the work, providing non infringement of the legal rights and interests of the right-holders on the exploitation of the work, which may be harmed by this act of the author, if it is necessary.
- f) To object the authorship decided arbitrarily by the others, whatever the reason is.

ARTICLE 11

Exertion of non propriety rights

- 1) The personal non-property rights are not subject of any waiving. These rights are
- 2) After the death of the author, exertion of the rights provided for in Art. 10 shall be transferred through the heredity, in accordance with the civil legislation and the provisions of this law.

Section II

The Property rights

Article 12

The propriety right

1. The author enjoys the exclusive right of exploitation over his work in any form and way.
2. The author of a literary, artistic or scientific work, enjoys the right of remuneration in any case and any way of the exploitation of the work, authorized or not by himself, even if he waives this right.

Article 13

The exclusive right for the exploitation of the work

1. The author enjoys the exclusive right of exploitation of his work either in material or non-material form.
2. The author enjoys the exclusive right, taking into consideration his work as a whole or in part, to authorize:
 - a) the direct or indirect, temporary or permanent reproduction of the work, by any means or in every form;
 - b) distribution to the public of an original or copy of the work, in every form, by selling, lending, renting, donation;
 - c) import, export and distribution of the copies of the works produced with the author's consent;
 - d) stage performances, recitations, any other kind of presentation to the public, or the direct performance of the work;
 - e) public exhibitions of the fine art works, applied arts, photographic creations, and architectural works;
 - f) public shows of the cinematography works and of other audio-visual works;
 - g) broadcasting of a creation through any kind of reproduction of signals, tones and images by wire or wireless, including even the satellite broadcasting.
 - h) broadcasting of a work to the public by wire, cables, optic fibers, or through any other way;
 - i) communication of a work to the public through audio or audio-visual recordings;
 - j) complete, simultaneous and uninterrupted re-transmission of a work through the means defined in paragraphs (g) and (h) by a broadcasting station, different from the original radio or television that transmitted the work;
 - k) alteration of the work;
 - l) making the works available to the public, through the wire or wireless means, in such a way that members of the public may have access at any place and at any time individually chosen by them.

Article 14

Distribution right of the work

The distribution right is exhausted on the original work or on its copy, when this right is exercised by its right holder or by his consent through the first sale or by any other means of ownership transfer, and only if these acts divest him of the right of redistribution of the work in continuance and of the rental right.

Article 15

Exceptions of the right of lending and renting

1. Making available a work for exposure, advertisement or communication purposes to the public through the phonograms or audio-visual (video-gram) recordings, including even part of each of them, as well as making available for consultation purposes, is excluded from the renting notion.
2. Making available a work for exposure, advertisement or communication purposes to the public through the phonograms or audio-visual (video-gram) recordings,

including even part of each of them, as well as making available for consultation purposes, is excluded from the lending notion.

3. When lending causes the payment of a remuneration, which does not surpass the sum that is necessary to cover the expenditures of borrower, is considered to have not a direct or indirect economic or commercial advantage.

4. Apart from the renting or lending right is given to the producer of phonogram, to the producer of the cinematographic, audio-visual works or of the sequences with movable appearance, the author and /or interpreter enjoys the right to obtain an adequate remuneration for the rental or lending contract, signed by the producer with the third parties. The management of this right may be transferred to the third parties representing the authors and the performers.

5. Provisions of this article regarding renting and lending are not applicable for the architectonic and applied art works.

ARTICLE 16

Transmission to the public

1. Acts of transmission to the public, are particularly:

a) Scenic stages, recites, or any other oral presentation and the performance to the public of the dramatic work, dramatic-musical works, literary-musical works, through any kind of means or procedure.

b) Screening of the cinematographic works to the public, and of other audio-visual works.

c) Transmission of any kind of work through the radio diffusion, or through any kind of way that serves for wireless diffusion of signs, sounds, or views.

ç) The radio-diffusion or communication to the public by satellite of any kind of work, under the control and responsibility of the broadcasting or satellite organization, targeted for the public.

d) The transmission of any kind of work to the public by wire, by cable network, by optic fibre or any other kind of proceeding that enables or not the remuneration.

dh) The emission or transmission of the work diffused by the radio, in a place opened to the public, through any kind of appropriate means.

e) Public exposure of the art works, or of their reproductions.

f) transfer or opening of the data base, making available to the public, through the above mentioned ways, apart if the data base contains and/or constitutes a protected work;

2. A communication which occurs within the close relatives and is not integrated nor connected with a diffusion network of any kind, is not considered as public communication.

ARTICLE 17

Alteration of the work

1. The author has the exclusive right to authorize every adaptation, elaboration and other alteration and translation that can occur on his/her work.
2. The copyright on the derived work, belongs to the new author, only in case he has previously taken a consent from the right holder of the original work, whereas its exploitation can be exhausted without prejudice of the right holders of the original work.

ARTICLE 18

The right of continuity

1. Authors of fine art works have the right of continuity on the sold work, in profiting by the seller not less than 5% of the sum accumulated by every resale of the work, but in no case more than 5000 Leks.
2. The right acclaimed in paragraph (1) of this Article may be transmitted only through inheritance.
3. The persons who have performed the re-sale, are obliged to announce the administration organization of the respective work, or, on the occasion, to inform the author or the persons who enjoy the copyright on the work, within 30 days from the day of the re-sale and have to deposit the necessary documentation, in order to pay off the remuneration of the continuity right. In addition, when they act in the account of, or, as representative of the proceeding sale-person, they are jointly responsible for the remuneration of the right, and to this end, they are obliged to calculate in the re-sale price the respective share of the author .
4. The right to ask information for the continuity right on the work is prescribed within three years, starting from the day of the sale announcement, but no later than 5 years from the sale date, unless the announcement is completed.

ARTICLE 19

The obligations of the graphic or plastic work proprietor

1. The person who become the owner of a graphic or plastic art work, is obliged to permit the author to supervise the work, and to let it at his disposal if the author asks to exert his property right, on condition that this act does not harm the legal rights of the owner.
2. In the case provisioned in paragraph (1) of this article, the author must provide the owner of the work with the market value of the original work as well as an appropriate remuneration, agreed upon in written form.

ARTICLE 20

Restrictions of the continuity right

1. In case the owner of the original fine art work wants to destroy or alienate the work, he must notify in written form the author of the work, who, in such a case, is the first to enjoy the right of buying the work on the value spent for its realisation.
2. If the restitution of the original to the author is impossible, the owner is obliged to permit the author to make a copy of the work, having the original as a model.
3. In cases of an architectural work, the author has only the right to take pictures of his own work and ask for a copy of the project.

CHAPTER IV

DURATION OF COPYRIGHT

ARTICLE 21

The duration of copyright

1. The copyright over a literary or artistic work shall run for the life of the author and 70 years after his death, irrespective of the date when the work has been lawfully available to the public.
2. For the works having two or more authors, the term specified in paragraph (1) of this Article, shall commence from the death of the last surviving author.
3. Copyright over anonymous or pseudonymous works, shall be protected for seventy years after the works have been lawfully made available to the public. However, when the pseudonym adopted by the author leaves no doubt as to his identity, or if the author discloses his identity during the period referred to in the first paragraph of this article, the provisions of the preceding article shall apply.
4. When the work is published in volumes, parts or episodes, the term of copyright protection runs from the time when the work was lawfully made available to the public adding to this term, the time calculated for each part of the work published separately.
5. In case of works, the protection term of which is not calculated from the death of the author or authors and which have not been lawfully made available to the public within 70 years from their creation, the copyright protection shall terminate.

ARTICLE 22

Cinematographic and other audiovisual works

The term of cinematographic and other audiovisual works' protection shall expires 70 years after the death of the last of the persons to survive, whether or not these persons are designated as co-authors.

ARTICLE 23

The protection of photographs

The copyright term over a photographic work shall be calculated based on the criteria defined in the Article 21 of this Law.

ARTICLE 24

The protection of foreign authors

When the country of origin of a work, within the meaning of the Berne Convention, is a third country, and the author of the work is not Albanian national, the term of protection shall expire on the date of expiry of the protection granted in the country of origin of the work, but not exceeding the term laid down in Article 21 of this Law.

ARTICLE 25

Calculation of the terms of protection

The terms laid down in this Chapter start from the first day of January of the year following the author's death or, accordingly, after the first lawful presentation of the work.

CHAPTER V

RESTRICTIONS TO THE EXERTION OF THE COPYRIGHT

ARTICLE 26

Restrictions of the copyright

Usage of the work without the permission of the author

The usage of an work is permitted, without the prior approval of the author and without any remuneration, on the condition that these usage do not prejudice the copyright or the right holders rights on the work. These cases include the following:

- a) The reproduction of separate writings or parts detached from a work on the daily press, periodicals, or in radio and televisions programs, if the name of the author and the source of information are indicated, and also in case otherwise provided.
- b) Reproduction of speeches held in public meetings, published on the daily press or on various periodicals, and also their transmission to the public, in radio and television, indicating the name of the author, the date and the place where the speech was held.

- c) Reproduction of the entire work or part of that work, during a judicial or administrative proceeding, always to the extent justified by the purpose of the usage and indicating the source of the work or its author as well.
- d) Reproduction of the entire work or parts of works for private use on the condition that it does not prejudice the commercial exploitation of the work.
- e) Reproduction of a work fixed in a container of the sound and/or of the figure, or in a graphic container, by a natural person, for purposes of individual or familiar usage, and without performing any direct or indirect commercial act.
- f) The photocopy of works that are located in public libraries, which are made for individual usage within this environment or for the services of the library.

ARTICLE 27

Partial reproduction of the work without remuneration

1. Briefing, citation or reproduction of excerpts or parts of a work for purposes of critical studies, or for discussions or theoretical purposes, is permitted within the extent of these aims, on the condition that these acts do not prejudice the commercial exploitation of the work.
2. In anthologies for educational purposes, the reproduction of the work or parts of it must not exceed the extent defined by the legal provisions and by-laws in force.
3. Briefing, citation or reproduction of a work or parts of it shall always be accompanied by mentioning the title of the work and the name of the author, the publisher and, in case of a translation, the name of the translator.

ARTICLE 28

Reproduction and rented use of the work for cultural advertisement

1. The reproduction of the work or of a part of it may be permitted without the author's or right holder's consent in the case of lending of these works by public institutions that owe the legal original copies of the work, only for cultural advertisement and not for profit aims.

Constitute exception from paragraph 1 the following:

- a) musical and opera scores;
- b) phonograms and videograms containing musical works, cinematographic or audiovisual works, fragments from movies with or without sound, only 18 months after the first exertion of the distribution right.
- c) In the case when the libraries or the disco-graphic houses, either public or governmental ones, rent the works to be used for cultural advertisements or private usage, it is not asked the consent of the right holders of the aforesaid works and it does not apply any financial obligation over it.

In this context, the term "rented use" means the following:

- a) photocopy of the original works, besides the opera and musical scores;
- b) phonograms and videograms containing musical, cinematographic, audiovisual works or sequences of movie pictures, with or without voice, only 18 months after the first exertion of the distribution right.
- c) In case the renting public institution has profit purposes, the above mention paragraph will be applied upon the order of the Minister of Culture, Youth and Sports.

ARTICLE 29

Reproduction of musical works or parts of them, for non profit purposes

The musical groups and bands of Armed Forces of the republic of Albania may perform in public musical excerption or parts from the musical works, without any payment regarding the exploitation rights of the work to their right holder, on the condition that the performance has been performed for non profit purposes.

CHAPTER VI

THE TRANSFERIBILITY OF THE AUTHOR'S PROPERTY RIGHTS

Section One

General Provisions

ARTICLE 30

Transfer of propriety rights through the contract

1. The author or right holder can transfer through a contract, only his property rights.
2. The transfer of the author's property rights is limited for some defined rights over a certain territory and for a certain period of time, expressively provided in the agreement or in the contract.
3. The property rights of the author are transferred in the exclusive or non-exclusive form;
4. In case of the exclusive form of transfer, the owner of the original work does not any longer have the right of usage of the work, during the period of time and for the territory agreed upon, and does not have the right to transfer the same title to a third party.

The object and the conditions of the exclusive form transfer of the right are provided expressly in the contract. The contract is valid when it is in accordance to the provisions of this law and legislation in force.

Re-transfer of the right in the exclusive form for the same object and conditions, from its right holder to another person, is null and void.

5. In case of non-transferring of the exclusive form right, the author or accordingly, the owner of the original work, enjoys the right of ownership even through a third party.

6. The person who does not enjoy the right of exploitation of the work in exclusive form, cannot transfer this right to a third party, without a written consent from the author of the work.

7. The delivery of a property right by the copyright titleholder, has no influence on the other rights.

ARTICLE 31

The transfer of the reproduction right

The transfer of the work's reproduction right does not mean the distribution right transfer, except for the cases when the contract does expressly otherwise provides.

ARTICLE 32

The terms of the contract

1. The contract on property rights transferability is valid only in written form.
2. The contract on author's property rights transfer defines the rights and the obligations of the right-holder who acquire these rights, the ways of exploitation, the time period, the territory and the respective remuneration.
3. The lack of these provisions gives the right to the interested party to ask for the dissolve of the contract.

ARTICLE 33

The works created according to the working contract

1. The employer enjoys the property rights on the work created by the author according to the individual working contract. In this case, the contract must provide the period of time for which the property rights have been granted, except the case when expressly otherwise settled. Unless this period of time is defined, it is considered to be 3 years from the date of consignment of the work.
2. At the expiration of the period settled in paragraph (1) of this article, the propriety rights will be turned back to the employee.

ARTICLE 34

The remuneration on the propriety rights transfer

1. The remuneration on the property rights transfer is settled in an agreement between the parties. The remuneration is calculated in commensurate with the revenues deriving from exploitation, or in other ways.

2. In case the remuneration is not settled in the contract, the author or the right-holder of the copyrights, enjoys the right of appealing the competent authorities, to fix the payment according to the terms of this law.

In this case, the remuneration is fixed following the analogous cases, taking into consideration the greatest amount of the remuneration, for the same category of works, the destination and duration of exploitation, and any other circumstance related to this case, proved by the interested party. This remuneration never can be defined less than 15% of the amount obtained by the exploitation of the work.

3. In case of an obvious disproportion between the author' s revenues and benefits of the person who has transferred the property rights, the author has the right to make amends to the contract regarding his remuneration.

4. The author has no right to waive from the right defined in paragraph (3), except the case is transferred via heredity.

ARTICLE 35

The works published in periodicals

1. The right holder of a work published in a periodical, enjoys the right to use it according to the terms defined in the contract, on the condition that this act does not prejudice the distribution right of the work published in periodical.

2. Unless being agreed upon otherwise, the right holder of the work may withdraw it:

- When the work is not published within e period of a month from the day it is given to be published in the daily press or periodicals,
- Six months after the publication.

ARTICLE 36

Contract on ordering a work

1. The validity of the signed contract for ordering a work in the future, is conditioned by the determination of the time period for the work delivery and by the acceptance terms of the person ordering the work.

2. The person who orders the work, has the right to waive the contract in the case the work is not in accordance with the agreed terms.

ARTICLE 37

Withdrawal of the author from the transfer contract of the property rights

1. The author has the right for one-sided withdrawal from the transfer contract of property rights, in case the one profiting the rights does not exploit the work according to the agreed terms.
2. The author does not have the right for one-sided withdrawal from the transfer contract of his rights, in case it is the author himself for non-exploitation of the work, according to the terms referred to in the contract, and in this case he is responsible for the caused damage.
3. According to paragraph (1), the one-sided withdrawal from the contract, should not be requested before the termination of the biannual period from the date of granting the property rights. In the case of works published in the daily press, the above mentioned period of time is three months; for the other periodicals it is one year.
4. The owner of a work in the field of fine arts or photography, has the right of exposure in the public, regardless this work has not been previously available to the public, except for the cases the author himself has expressively excluded this right through the transfer contract of propriety rights.
5. The author has no right to waive the participation in the exercising the propriety rights.

Section II

Publishing Contracts

ARTICLE 38

The contract between the author and publisher of the work

1. With a publishing contract, the author grants the publisher the right of reproduction and redistribution of the work, and the publisher has to pay the compensation due to the author.
2. The titleholder of the copyright enjoys the right to assign to the publisher the authorization for the translation and adaptation of the work.

ARTICLE 39

Relations with the third parties

The transfer of the rights to the publisher, in order to authorize the third parties to adopt or use the creation, constitutes the object of a special contract.

Article 40

Terms of a contract on publishing

1. The contract on publishing contains the following terms:
 - a. The duration of the contract validity ;
 - b. The exclusive or non-exclusive form, the period and the territory where the work has to be exploited;
 - c. The run of the publishing work;
 - ç. The remuneration of the author, defined according to the conditions provided by this law;
 - d. The number of copies belonging to the author;
 - dh. The time period during which the author has to submit the original work;
 - e. Procedures of run control of the work;
 - f. Publication of the work provided with ISBN.

2. The lack of any provision provided in paragraph (1) of this law, gives the author the right to withdraw from the contract and ask the compensation for the damage caused as well.

ARTICLE 41

Transfer of the right of publishing, after the first publication

1. The publisher who has acquired the right to publish the work as a volume, enjoys the right of priority in the transfer of the publication right of the work in electronic form, against a remuneration which is equal with that of the competitor offered the highest remuneration for the author, or the right holder of copyright of the work, on the condition that the publisher of the volume, has paid without delay all the obligations derived from the publication contract.

2. The right referred to in paragraph (1) is valid for three years after the first publication of the work.

ARTICLE 42

Alteration of the work by the author

The publisher is obliged to permit the author to make alterations to any new publication, on the condition that these changes do not obviously increase the expenditures of the publication and do not evidently alter the motives of the creation, except for the case otherwise agreed upon.

ARTICLE 43

Transfer of the publishing contract to the third parties

The publisher is allowed to contract a publication with a third party for the same work, only after prior authorization of the author. In this case, the publisher is obliged to share equally the profited sum with the author.

ARTICLE 44

The obligatory restitution of the original copy of the work to the author

The publisher must turn back to the author the original copy of the work, the original copies of the art works, the illustrations and all the materials delivered for publication reasons and that are in the ownership of the author

ARTICLE 45

Validity of the publishing contract

1. The publication contract and the rights being transferred to the publisher must be deposited, and their effects originate, only after the registration and certification to the Albanian Office for Copyright. They expire after the termination of the term agreed in the contract or after the complete distribution of the copies of the publication . In case of refusal of contract registration or certification by the Albanian Office of Copyright, the applicant enjoys the right to appeal to the Ministry of Culture, Youth and Sports. The complaint processing is done in accordance to the dispositions of the Administrative Civil Code of the Republic of Albania.

2. Complete distribution of the published copies is considered when the unsold copies make up at least 5% of the editing run, but, in any case, not less than 100 copies.

3. If the publisher does not publish the work at the agreed time, the author enjoys the right to avoid the contract, ask for the compensation of the damage caused and the missing profit, in accordance to the legislation in force.

4. If the time for the publication of the work has not been defined in the contract, the last limit will be the 200th day, following the certify of the publishing contract and the transfer of the right on the work by the Albanian Office of Copyright.

5. The author or the copyright holder may take back the copies, remained undistributed up to two years after the termination of the contract, which the publisher decides to destroy, against the remuneration paid to the publisher for the expenses occurred for these copies, except for the case when the agreement does not explicitly provide otherwise.

ARTICLE 46

Cancellation of the publishing contract

1. If, after the publication of the work and before its distribution, the quantity of published copies is completely destroyed due to major forces, the contract is to be considered cancelled and the parties do not have obligations, if it has been required by the party which incurred damages by the major force, by submitting the contract to the Albanian Office on Copyright, the later announces the other party within 15 days by the date of contract submission.

2. If after the publication of the work and before its distribution, the amount of published copies is partially damaged due to major forces, the contract has to be

considered valid for the remaining part, or completely valid if the publisher substitute the damaged amount on his own expenses, within the terms set in the contract.

SECTION III

Contracts on Theatrical and/or Musical Performances

ARTICLE 47

Contracts on Theatrical and/or Musical Performances

1. The contract of theatrical or musical performance, is the transfer of the right to perform in the public the literary, dramatic, dramatic-musical, choreographic or pantomimic, by the author or right-holder of the copyright to another person, organizer of the performance.

2. The contract of the theatrical and/or musical performance mentioned in paragraph 1 of this law, is valid and originate the effects only after the registration and certification by the Albanian Office for the Copyrights, and expire after the termination of the term for which an agreement has been reached. In case of registration and certification refusal by the Albanian Office of the Copyright, the applicant enjoys the right of complaint in accordance with dispositions of the Administrative Procedures Code of the Republic of Albania.

ARTICLE 48

The clauses of the contract

1. The contract for theatrical and/or musical performances has to be concluded in written form for a definite time-period and number of performances to the public.

2. The contract must include the time period over which the performance is staged, number of performances of the work, exclusive or non-exclusive forms of rights transfer, conditions of the supervision of revenues and the way of remuneration for the author or for the right-holder of the copyright.

3. If no agreement has been reached in the contract regarding another period of time, the interruption of the performance for 2 consecutive years, gives the author the right to ask for the annulment of the contract, the indemnification for the damage caused and the missing profit, according to the legal dispositions in force.

4. The title-holder of the right to perform the theatrical or dramatic-musical works, does not enjoy the right to transfer the granted rights to a third party, without the prior written approval of the author, or of the copyright title holder.

ARTICLE 49

The obligations of the right holder

The right holder for staging a theatrical and/or musical show, is obligated:

- a) to allow the author or the copyright title-holder to supervise the performance of the work;
- b) to assure the implementation of technical conditions for the performance of the work;
- c) to hand over to the author the program, the placard and other printed materials as well as the public opinion on the performance;
- d) to inform the author in written form about the number of realized performances, the situation of revenues obtained respectively for each performance, upon the author's or title-holder's right request;

ARTICLE 50

One- sided cancellation of the contract

In case the right holder for the theatrical and/or dramatic-musical performance does not perform the work in the public, on the agreed period, the author or the title right holder has the right for one-sided waive from the contract, and to ask for indemnification for the damage suffered and for the missing profit, according to the legislation in force.

TITLE II

RELATED RIGHTS

CHAPTER I

General Provisions

ARTICLE 51

RELATED RIGHTS

1. The related rights do not affect the authors' rights.
2. The property rights provided in this Chapter, can be partially or completely transferred, according to the provisions of this law, and other legal provisions in force. The following rights constitute the object of exclusive or non-exclusive rights transfer.
3. Any agreement on the property rights transfer in the exclusive form, must be submitted for registration and certification in the Albanian Copyright Office.

CHAPTER II

The rights of interpreting and/or performing artists

Article 52

The interpreting and/or performing artists

1) For the purpose of this law, the performing or interpreting artists are:

The actors, singers, musicians, dancers and other persons who present, sing, dance, recite, play, interpret in dramas, films, conduct orchestras or perform in any manner an artistic or literary work, a performance of every kind, including the folklore, variety shows, circus and the puppets shows.

2) The provisions of this Chapter are applicable also for interpreting and/or performing artists:

- a. who play an important role for the performance of a dramatic, literary, musical work or a composition, even if this is a secondary role;
- b. who conduct the orchestra or chorus;

ARTICLE 53

Non propriety rights of the player and performer artists

1. The interpreting and/or performing artist has not only the obligation to identify the origin (author, authors, etc) of the work interpreting and/or performing, but he/she has the following own non-property rights:

- a) to ask for unveiling of their names, when their performances are presented in the public, transmitted or fixed in a phonogram registration, in cinematography or other container of audiovisual works, or in any other similar production;
- b) to ask the respect of the quality of the show, and to object any change or falsification;
- c) to object any distribution, transmission or reproduction of the performances where he/she interpret and/or perform, that could harm their honour or reputation;

2. The rights of the interpreters expire 50 years after the date of performance in the public;

Anyway, in case the performance is legally put into public disposal or it is transmitted legally to the public within the abovementioned period, the rights validity expires 50 years following the day of first publication or the first presentation in the public, whichever be the earlier.

ARTICLE 54

The Exertion of the rights of the interpreting and performing artists

1. The rights mentioned in Art. 53 are not object of resignation by the interpreting and/or performing artists.
2. After the death of the player and/or performer artist, the exertion of the rights provided in Art. 53 are inherited, according to the provisions of the Civil Code,

ARTICLE 55

The propriety rights of the interpreting and/or performing artists

1. Apart from any remuneration gained for their live performances and/or plays, the interpreting and/or performing artists enjoy the exclusive right:

- a) to authorize registration of their interpretation and/or performing.
- b) to authorize the direct or indirect reproduction of the registration of their interpretation and/or performance;
- c) to authorize or prohibit broadcasting by any cable or satellite means and communication to the public of their plays and/or performances, beside when the performance has been already broadcasted or fixed in a container. If the registration is realised in a phonographic or similar container and is used either for profit or non-profit purposes, the performing and/or interpreting artists, shall enjoy the right of a remuneration according to Article 61 of this Law;
- d) to authorize the distribution of the records of their performances by selling, renting or any other way of transfer of property or possession; the right to distribute the original copy of the recording of the performance and/or play, beside the renting, terminates after its first sale by the right holder or with his approval;
- e) to authorize the availability to the public or to him, of the records of the performances and/or interpretations.

2. The performing and/or interpreting artists enjoy the right of only one remuneration, payable by the user, if the record of their performance and/or play, has been transmitted for commercial purposes, or reproduction of the record has been for its transmission by wire or wireless means/appliance that are capable to transmit them to the public.

3. The term of property rights for the performing and/or interpreting artists is 50 years, beginning by the date when the work has been lawfully available to the public.

ARTICLE 56

The right of representation of the performing and playing artists

1. The performing and/or playing artists taking part collectively at the same performance, such are the ballet dancers, members of a band, chorus, orchestra or theatrical ensemble have the right to assign a representative, who, on their behalf and benefit, issues the authorizations on the rights mentioned in Article 55 of this law.

2. The representative is assigned only in written.

ARTICLE 57

The property rights deriving from the working contract

1. The property rights on the records of the performances and/or the interpretations accomplished according to the individual working contract belong to the employer for a limited period of time, besides the case expressed otherwise. If this period of time has not been defined in the contract, it has to be considered to have a validity of three years starting from the day the recording of the performance and/or interpretation has been realised.
2. The property rights are given back to the employer at the termination of the time period laid down in Paragraph (1).
3. If a contract between an interpreter and work producer has been signed, either individual or collective, on the production of cinematographic or audiovisual work, the performer included in this contract has to be presumed that has lost his rental right, beside the case when agreed upon otherwise.

ARTICLE 58

The exclusive right of performance exploitation

1. The performing and/or interpreting artists, taking part in the production of an audiovisual work or recording of various phonograms, are presumed to have transferred to the producer the exclusive right of exploitation of the performance by means of fixation, reproduction, distribution and communication to the public, unless otherwise defined in the agreement between them.
2. The performing and/or the interpreting artists enjoy the right to profit 50% of the amount of the net incomes acquired by the producer.

CHAPTER III

The right of the producers of the phonograph records

ARTICLE 59

The producer of the phonograph records

1. The person accomplishing the recording and fixation of a work in a phonographic container or in any other related appliance for the reproduction of the sounds and voices directly from the performance, has to be considered the producer. The place where the above mentioned operations are accomplished is called the production place.
2. Without prejudice to the rights that the authors or their successors enjoy, the producer of a phonographic container or any other related appliance for the reproduction of sounds or voices, enjoys the exclusive right to distribute and to reproduce, whatever the registration or fixation process is, either the phonographic

containers or an appliance being produced by himself, for the period and terms laid down in the following articles.

3. Upon the authorisation of the author, the phonograph producer enjoys the exclusive right of rental or lending of phonograms produced by himself and the right to authorize their lending or rental as well. This right does not exhaust by the sale or distribution of phonograms in any form, except for otherwise provided in the agreement.

4. The producer enjoys the right to oppose any non-authorized action for phonographic recording or the use of other means to reproduce sounds or voices, if such operations affect his commercial interests of the work; he also enjoys the right to take from the respective user, the indemnification of the damage and the missing profit, by the case, despite the targeted aim of this latter.

ARTICLE 60

Conditions and criteria for the distribution of phonograms

- 1) The distribution of the phonographic records copies or of any other alike appliance for sounds or voices reproduction, where a work is recorded, is only allowed if they must contain the following elements:
 - a) The title of the reproduced work;
 - b) The name of the author;
 - c) The name of the performing and/or interpreting artist. Theo orchestral or coral groups will be identified by their artistic name;
 - d) The date of production
 - e) The artistic seal of the Albanian Copyright Office, the unconsumed one;
 - f) The sign (P) fixed in an insoluble manner to the container.
- 2) The distribution right, laid down in this chapter, is applicable only if a copy of the phonogram container or any other related appliance for the reproduction of the sound and voices is deposited to the Albanian Copyright Office, in accordance with the provisions of its regulation.

ARTICLE 61

The revenues collected by the producer of phonographic records

1. The producer of a phonographic container or of a similar mean to produce sounds or voice, along with the interpreting and/or performing artists of a work or part of it recorded or reproduced on these devices, enjoy the right of a common remuneration in exchange of the use of the phonographic container or of the other mean, through the transmission by radio or television, including also the satellite transmission to the public, cinema screening, public dancing, any other show into public environment, and in any other case of public use of the container with the respective recording, apart from the rights provided in the article 59 of this Law.
2. The producer is obliged to deposit the amount of the common remuneration belonging to the interpreting and/or performing artists and to divide the remuneration

among the artists participating in performing and/or the execution of the work or of parts of it, as stated in the provisions above.

3. The non-deposit of the remuneration from the producer, belonging to the interpreter and/ or performing artists, up to one year from the date of the use, binds the producer to pay off the obligation toward them for the amount which can or must be taken from the user.

4. The amount of the common remuneration and the share of each participant in the play or execution of the work, is defined on the bases of agreement signed between the interested parties, but in any case, not less than 50% belongs to the interpreting and/or performing artists.

ARTICLE 62

The duration of the property rights of the producer.

1. The duration of the property rights of the producer is 50 years after the first settlement, starting from the first of January of the consecutive year.
2. If the record has been made available to the public during this period of time, the duration of the property rights is 50 years, after the day the record has been available to the public.

ARTICLE 63

Restrictions of the rights for the producers of the phonographic records

1. The rights referred to in this Chapter, may present restrictions in respect of :
 - a) private use;
 - b) use of excerpts along with the reporting of happening events;
 - c) temporary fixation by the part of a broadcasting organization through its own facilities and for its own broadcasts;
 - d) use solely for the purposes of teaching and scientific research.
2. The restrictions provided in paragraph 1 of this Law are applicable with regard to the protection of performers and/or interpreters, producers of phonograms, broadcasting organizations as it is defined for the protection of the copyright of literary and artistic works.

CHAPTER IV

THE RIGHTS OF THE PRODUCERS OF THE CINEMATOGRAPHIC WORKS OR OTHER AUDIOVISUAL WORKS

ARTICLE 64

The rights of the producers of cinematographic or other audiovisual works

The producer of a cinematographic work, of any other audiovisual work, or of the film sequences, enjoys, upon the author's authorisation, the exclusive right to :

- a) authorize direct or indirect reproduction of the original works and of the copies deriving from this reproduction;
- b) authorize the distribution using all means, including the sale of the original works and of the copies deriving from this reproduction. The right of the work reproduction is not exhausted over the territory of the Republic of Albania, if its first commercialization/trade in this territory is not done by its producer or with his authorization.
- c) authorize renting or lending of the original works and of the deriving copies. The sale or distribution in any way, does not exhaust the right of rental or of the lending.

ARTICLE 65

The duration of the rights for the producers of the Cinematography or other Audio-visual Works

The rights referred to in the Article 64 of this Law, shall expire 50 years after the first fixation of the work is made.

ARTICLE 66

Expiration of the rights

- 1) If the cinematographic or other audiovisual work, or the sequences of film views, has been available or communicated to the public during the period defined in the article 65 of this law, the rights granted in article 64 of this law shall expire 50 years after the first communication of this cinematographic or audiovisual work to the public.
- 2) If the cinematographic, audiovisual work or the sequence of the film views, has been published or communicated to the public earlier than the period determined in article 65 of this law, the rights settled out in article 64 of this law shall expire 50 years, after the first communication to the public of the cinematography or other audiovisual work, or of the sequence of the film views.

PART III

THE LEGAL OPERATIONS INTERCATED WITH THE COPYRIGHT AND THE RELATED RIGHTS

CHAPTER I

The cinematographic works or other audiovisual works

ARTICLE 67

Co-authorship in cinematographic or audiovisual works

1. The co-authorship of a cinematographic work and/or any other audiovisual material is entitled to the author of the subject, the author of the screenplay, the author of the dialogue, the composer and to the director.
2. The other natural persons sharing their contribution to a cinematographic or audiovisual work, who prove that their contribution match the general requirements of a private intellectual creation, are entitled co-authors in this work.
3. The exertion of the rights over property use of a cinematographic work or of any other audiovisual work belongs to the person, who has realised the work production without prejudicing the author's moral right, within the defined time-limits in the following articles of this Chapter, if otherwise agreed for the transfer of these rights.
4. The producer of a cinematographic or audiovisual work is presumed the person who is mentioned as such in the cinematographic or audiovisual work container.

ARTICLE 68

The rights of the producer of film or audiovisual works

1. The exertion of the right of exploitation, pertaining to the producer of the work, is only object of the cinematographic exploitation or any other exploitation of the audiovisual work being produced, explicitly defined in the contract signed with the author on the rights' transfer.
2. In the lack of otherwise agreement, the producer might not undertake changes, adoption, transformations or translations from the produced work without having the consent of the authors as per paragraphs 1 and 2 of Article 67 of this Law.
3. The authors of the music, of the musical compositions and of the texts accompanying the music or the title holders of the rights over these works, enjoy the right to get special remuneration for each performance directly provided by the persons communicating the work into public. In case of not existence of an agreement between parties, the author or the title holder of the author's rights enjoy the right to ask the respective organs to define the amount of remuneration, pursuant to the criteria set by this law. In this case, the remuneration is being defined analogically taking into account the greater amount of the remuneration for the same work category, place and duration of the exploitation and any other circumstances being proved by the interested party, but it must not be less than 15% of the sum profited by the exploitation of the work.
4. Unless being remunerated, upon the percentage, by the incomes resulting from the public performance of the cinematographic or audiovisual work, the authors of the subject, of the screenplay, of the dialogue, and the director enjoy the right to get a special additional compensation, when the incomes reach the amount set in the contract with the producer, the form and unit of which is decided upon the agreement between the interested parties.
5. The size of the special compensation for public shows using film projector means, musical compositions or for texts accompanying the musical work being integral part of the film work or of other audiovisual material, within the meaning of this article, shall be settled upon a general agreement between the collective administration agencies of the copyright and representing organisations of film works shows or other

audiovisual materials or an agreement between these later and the person realising the public show of the work when a representing organisation is missing.

ARTICLE 69

The property rights over film works or other audiovisual materials

1. Irrespective of the provisions under the article 67 of this law, which defines the distribution rights eligible to the producer, the authors of film or audiovisual works acquire the right of the correct compensation by the distributing organisation. Such compensation must be paid commencing from 1st up to 31st January of each year and for each type of use of the work, after its public show, broadcasted by wireless, cable or satellite means, during the following year.
2. In case of film and audiovisual or similar works' use, other than that provisioned in paragraph 1 of this law and of the letter "d" of the paragraph 1 of article 16 of this law, the authors of the work shall be entitled to a proportional compensation for each separate use of the work by persons being granted the use rights.
3. In each case of film or audiovisual or similar works' use, the original language of which is not Albanian, the authors of the derivative works, the texts of which is being translated or their dialogues adopted into Albanian language, shall be entitled the right of direct compensation.
4. The remuneration provisioned in the paragraphs 1, 2 and 3 of this law shall not be avoided and, if an agreement does not exist between the interested parties under the paragraph 5 of the article 68, this compensation shall be settled in analogous way, in accordance with the procedures under paragraph 3 of the article 67 of this law being "*mutatis- mutandis*" applied, substituting the type of use.

ARTICLE 70

The reciprocity on the rights and obligations between the producers and authors of the film and audiovisual works

1. The producer shall be entitled the right to make changes, adoptions, transformations or translations over the film or audiovisual work being used, which are deemed necessary for the cinematographic or audiovisual production following the provisions under the paragraph 2 of the article 68 of this law.
2. The necessity of changes made or to be made on the cinematographic or audiovisual work, in case an agreement does not exist between the producer and one or more authors under article 67 of this law, shall be considered by the experts of the work changed, who will be appointed by the Albanian Office for the Copyright, in accordance with the rules of the civil procedure in assigning experts.
3. The written report of the experts group shall be final and the institution takes the decision, which may be objected by the interested person presenting the case in the court.

ARTICLE 71

The right of authors' name appearance in the film or audiovisual works

The authors of cinematographic or audiovisual works enjoy the right to have their names being declared in the public during their film and/or audiovisual work show to make known their professional estimations and contributions in the work.

ARTICLE 72

Restriction over the authors' right for the reproduction of film and/or audiovisual works

The authors of literary or musical parts of a film and/or audiovisual work may have the right to reproduce them or to make separate use of them by any means, on the condition that this might not prejudice the right of exploitation being granted to the producer.

ARTICLE 73

The legal operations between the authors and producers of film and/or audiovisual works

1. If the producer does not conclude the film and/or audiovisual work within a period of 3 years from the date of handing over the musical or literary parts or he does not distribute the completed work within three years of its completion, the authors of the separate parts of the work are assumed to have possession on their work, following the dispositions of this law without being restricted by the joint contract with the producer.
2. If after the completion of the deadline defined in paragraph 1 of this article, upon the special consent of the authors, the producer manages to complete or distribute the film and/or audiovisual work within a period of one year, the agreement concluded with the authors is valid providing the reservation of abiding the rights the authors have been entitled by the paragraph 1 of this law. The authors' special approval can not be previously provisioned in the agreement reached with the producer and it might not be avoided by no means, as well.
3. Any act violating the aforesaid paragraphs will be assumed unavailable.
4. In the case the producer does not complete the film and/or audiovisual work within 5 years after the date of contract's termination or failed to distribute it within one year starting the date the work is completed, the authors may demand the cancellation of the contract, the compensation of the damage caused automatically acquiring the proprietor's right over each separate part of the work.

ARTICLE 74

The revenues collected by the film and/or audiovisual works

1. The revenues resulting from each type of use of the film and/or audiovisual work shall be proportional to the overall revenues deriving from it, unless it is otherwise agreed upon.
2. At the request of the authors or any separate member of co-authorship, the producer shall provide to them a statement on the revenues collected form each type of use of

the work. The authors get their compensations by the producer, user or the collective administration agency on the bases of a joint contract.

CHAPTER II

COMPUTER PROGRAMS

ARTICLE 75

The rights on computer program work

The exertion of rights over a computer program for economic use, is based on the following provisions, and unless explicatively defined, on other general or special provisions of this law.

ARTICLE 76

Protection of the computer program

- 1) A computer program shall be protected only if it is original, in the sense that it is the result of the author's own intellectual creation.
- 2) The protection under this law shall apply over each type of expression of a computer program, of all the successive versions of the programs deriving from it.
- 3) Without prejudice to the provisions of this law, if a computer program is included in a diploma or a model for use, it benefits protection from the legal provisions for the protection of the industrial property.

ARTICLE 77

Protection of technical documentation and of guidelines for use

Technical documentation and the guidelines for using a computer program, enjoy the same protection as the computer program itself, according to the provisions of this law.

ARTICLE 78

Exemptions from the protection

Exempted from the provisions of this law shall be the ideas and principles which constitute the basis of each element of a computer program, including those that are in the substructure of its interfaces.

ARTICLE 79

Author of the computer program

1. Author of a computer program shall be the natural person or group of natural persons presented in any form of their association, who have realized the work through their contribution and their creative capabilities. If the computer program is a joint work, the provisions of article 7 of this law are applied, in absence of an agreement otherwise.

2. The above mentioned individuals are title holders of all rights over the work, unless otherwise provided in this law.

ARTICLE 80

Computer programs created under an employment contract

The copyright over a computer program created by an employee, while performing his duties or following the instructions given by his employer, under employment relationship, shall belong to the employer, be it an original computer program or object.

Article 81

Exclusive rights of the author for the exploitation of the computer programs

Without prejudice to the provisions of Article 82 and 83 of this Law, the exclusive rights of exploitation of computer programs, provided by this Law, include the right to make or authorize:

- a) Temporary or permanent reproduction of a computer program by any means and in any form, in part or as a whole. Insofar as loading, displaying in the screen, running, transmission or storage of the computer program necessitate such reproduction, such acts shall be subject to the preliminary authorization by the right holders.
- b) the translation, adaptation, arrangement and any other alteration of a computer program and the reproduction of results thereof, without prejudice to the rights of the person who alters the program.
- c) any kind of distribution to the public, including rental or lending of the computer program, or of copies thereof.

The first sale in the territory of the Republic of Albania of a copy of a program by the right holder over the work, or with his consent, shall exhaust the distribution right of this copy by everyone within this territory, with the exception of the right to control further usage of the program or a copy thereof.

ARTICLE 82

The right for the use of the computer programs by the lawful acquirer without the authorization of the author

1. Unless otherwise agreed upon, the acts referred to in Article 81(a) and (b) shall not require the consent of the right holder, when they are necessary for the use of the

computer program by the lawful acquirer in accordance with its intended purpose in the acquirement agreement , including for error correction.

2.Preparation of a back-up copy by a person enjoying the right over the use of a computer programme, whenever one is necessary for the respective use, may not be prevented by contract.

3.The person lawfully acquiring the right to use a copy of a computer program shall be entitled, without the consent of the right holder, to observe, study or test the action of the program in order to determine the ideas and principles which may be embodied in any of its elements as long as this is done in the process of loading the software, displaying on the screen, programming, transmitting or storing in the computer memory if that person is entitled to carry out such actions. Any contractual provisions contrary to the conditions provided in this paragraph and in paragraph (2), shall be null and void.

ARTICLE 83

The cases of exclusion from the authorization of the author of the computer programs

- 1) The authorization of the right-holder shall not be required when reproduction of the code and transmission of its form within the meaning of article 81 (a) and (b) are indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that the following conditions are met:
 - (a) these acts shall be performed by the licensee or by another person having the right to use a copy of a program, or by a person authorized to do so on their behalf ;
 - (b) the information necessary to achieve interoperability has not previously been readily available to the persons referred to in the above mention subparagraph;
 - (c) these acts are confined to the parts of the original program which are necessary to achieve interoperability.
- 2) The provisions of paragraph (1) shall not permit the information obtained as above:
 - (a) to be used for goals other than to achieve the interoperability of the independently created computer program;
 - (b) to be transferred to others, except when necessary for the interoperability of the independently created computer program;
 - (c) to be used for commercial purposes or for the development, production or marketing of a computer program substantially similar in its expression, or for any other act which infringes exploitation copyright.
- 3) Any contractual agreement or its part contrary to paragraph (1) and (2) shall be null and void.
- 4) Pursuant to the provisions of the Berne Convention “For the Protection of Literary and Artistic Works” the provisions of this article may be not interpreted in such a way as to allow its application to be used in a manner which unreasonably

prejudices the right holder's legitimate interests or conflicts with a normal exploitation of the computer program.

ARTICLE 84

The provisions of Chapter V "Restrictions of the copyright" , of Title I, shall not be applied to computer programs.

CHAPTER III

FINE ARTS, ARCHITECTURE AND PHOTOGRAPHY WORKS

ARTICLE 85

The right of inviolability of the work

The legal or natural person who organizes art exhibitions for fine arts, architectural designs or photographic works, is responsible for the inviolability of the exhibited works.

ARTICLE 86

The copyright for the reproduction of the works of fine arts, architecture and photography

- 1.The contract on the reproduction of a work includes data regarding the work and the author.
- 2.The reproduction shall not be distributed without the author's or copyright-holder's consent, on the condition this reproduced copy is previously examined by the author or the right-holder himself.
- 3.All the copies shall have the name or pseudonyms of the author, or any other mark, upon which previous agreement has been reached and helps for author's identification.
- 4.All the original models, either in a small maximised scale, and any other element that have assisted the person to perform the reproduction, shall be returned to the author in any state of quality, unless otherwise agreed.
- 5.The instruments specially created for the reproduction of the work may be destroyed or become unavailable, if the author or the copyright holder does not buy them, or if no agreement on the contrary has been reached between them.

ARTICLE 87

The studies, architectural and urban plans

1.The studies or architectural and urban plans, being displayed in the vicinity of the place of the architecture work and the constructed building, must be place in a visible place and bear the name of the author, unless otherwise agreed explicitly by the author.

2.The consent of the original architectural design's author shall be required in case the construction of an architectural work, is being applied partially or completely different from the previous one.

ARTICLE 88

Photographic works

1.The individual frames of a cinematographic movie shall be considered as photographic works.

ARTICLE 89

The property rights deriving by the working contract

1.The property rights of a photographic work created according to the tasks defined in the individual labour contract, or the ordered work, belong, for three years, to the employer, or to the person who ordered, except the case when otherwise expressly provided in the agreement.

2. The author benefits a compensation in a percentage being determined in the contract between the ordering person and the author for the period as per paragraph 1 of this article.

3.Withdrawal of the negative of the photographic work is followed by the transfer of the property rights from employer to the author.

ARTICLE 90

Publishing or reproduction of the picture of the author

1.The picture presenting the portrait of a person performed according to the request of that person, may be published or reproduced only with the permission of the person who is subject of the picture, or his heir, except the case when otherwise provided.

2.In case the name of the author exists in the original picture, it will be referred to in every reproduction, without prejudice to the rights provided in the letters "b" and "c" of article 10 of this law.

ARTICLE 91

The right of the portrayed person

1.The author or the right-holder of the work, does not have the right to reproduce or to make it available to the public without prior authorization of the portrayed person or of his heirs up to 20 years after his death.

2.There is no need of consent if the portrayed person is a model or has been granted a remuneration for his pose, except the case when otherwise provided in an agreement.

3.The authorization is not necessary for the distribution of a picture which presents:

- a. A publicly well-known person, and if the picture is available for a public activity;
- b. The person who constitutes a detail of a creation representing a group of people, a landscape or a public event.

ARTICLE 92

The right of secrecy of the private correspondence

Revealing to the public a private correspondence addressed to a person, requires the authorization of the person the correspondence is addressed to, or after the death, the authorization of author's successor, in case the addressee was not otherwise expressed in his testament.

Article 93

Inclusion in the copyright

The person whose portrait is available in the public and the person the private correspondence is addressed to, enjoy the right provided in letter "b", paragraph (2), Art. 13, of this law.

ARTICLE 94

Keeping the secret of the information source

1. Unless the consent of the person who has been the information source is taken, the publisher or producer of a work can not reveal to the public the secret of the information source used in the work, or publish a material related to it.

2.Beside the provision referred to in paragraph 1, revealing the information source to the public is also allowed on a final decision of the competent court.

CHAPTER IV

DATABASE

ARTICLE 95

The exclusive right of the author of a database

The author of a database shall have the exclusive right only to carry out or to authorize:

- a. temporary or permanent reproduction by any technical means and in any form, in whole or in part of a database;
- b. translation, adaptation, arrangement and any other alteration form;
- c. distribution to the public of the database or the copies thereof. The first sale in the territory of Republic of Albania of a copy of the database by the right-holder or with his consent shall exhaust the right to control resale of that copy within this territory;
- d. any communication, display or performance to the public, directly to the public under the paragraph “b” of this law.

ARTICLE 96

Actions allowed on a Database by the lawful user of that database

1.The performance by the lawful user of a database or of a copy thereof of any of the acts listed in article 95 which is necessary for the purposes of access to the contents of the databases and normal use of the contents by the lawful user, shall not require the authorization of the author of the database. Where the lawful user is authorized to use only part of the database, this provision shall apply only to that part.

2.The paragraph 1 of this article is applicable only in the following cases:

- a. reproduction for private purposes of a non-electronic database;
- b. use for illustration purposes in teaching and scientific research, on the condition of identifying the source, and not for commercial purposes;
- c. in uses for the purposes of public security or of an administrative or judicial procedure on the condition that not to be used for commercial purposes;
- d. where other exceptions to copyright which are traditionally authorized under the national law are involved, without prejudice to points (a), (b) and (c) of paragraph 2.

3.Paragraphs (1) and (2) of this article, may not be interpreted in such a way as to allow its application to be used in a manner which prejudices the right holder’s legitimate interests or conflicts with normal lawful exploitation of the database.

4.As regard the Database, the first sale of the original or of a copy by the right-holder or by his consent, exhaust the right of control on the redistribution of the database.

CHAPTER V

“SUI GENERIS” RIGHT

ARTICLE 97

The rights of the author of the Database.

1. This law provides the author of a database of the right to show that there has been a substantial investment, qualitative and/or quantitative, and a certain verification and presentation of the contents to prohibit the exclusive rights of reutilization or extraction of the whole or of a part, of the contents of that database.

2. For this purpose:

- a. “extraction” shall mean the permanent or temporary transfer of all or of a part of the contents of a database to another medium by any technical means or in any other form;
- b. “re-utilization” shall mean any form or manner of making available to the public of all or a substantial part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission. The first sale of a copy of a database within the territory of the Republic of Albania by the right holder or with his consent shall exhaust the right to control resale of that copy within this territory.

The first sale within the territory of the Republic of Albania of a copy of database carried out by the titleholder of the rights or upon his consent, exhausts the right to supervise the resale of this copy within this territory.

3. Public lending is not an act of “extraction” or “re-utilization”.

4. The right referred to in paragraph (1) of this article may be transferred or granted under a written agreement.

5. The right provided for in paragraph (1) of this article shall apply irrespective of the eligibility of that database for protection by copyright or by other rights and irrespective of its contents. Protection of databases under the right provided for in paragraph (1) of this article shall not prejudice the rights gained in respect of their contents.

6. The repeated and systematic “extraction” and/or reutilization of insubstantial parts of the contents of the database, implying acts which conflict with a normal exploitation of that database and which prejudices the legitimate interests of the maker of the database, shall not be permitted.

ARTICLE 98

Duration of protection

1. The right provided for in Article 96 of this law shall rise from the date of making database available to the public and shall expire fifteen years from the first of January of the following year.

2. In case a database is made available to the public, in whatever manner, before expiry of the period provided for in paragraph (1) of this article, the right provisioned in article 96 of this law shall expires fifteen years from the first of January of the year following the date when the database was first made available to the public.

3. Any substantial change, evaluated qualitatively and/or quantitatively, to the contents of a database, including any substantial change resulting from the accumulation of successive additions, deletions or alterations, which in a database would be considered to be a new investment, evaluated qualitatively and/or quantitatively, enjoys the same protection as the database from which it has derived.

The evaluation that, the quantitative or qualitative change of a database constitutes a new investment or not, shall be performed from the specialists in respective field, authorized by the Albanian Office for Copyright, on the request of interested party.

CHAPTER VI

RADIO AND TELEVISION ASSOCIATIONS

Section I

Rights of Radio and Television Associations

ARTICLE 99

The rights of Radio and Television Associations

1. The radio and television associations enjoy the exclusive right to authorize:

- (a) fixing of their transmissions;
- (b) reproduction of their transmissions, fixed in any kind of a container;
- (c) distribution of their transmissions fixed in any kind of voice and/or figure container through the sale or other forms of property transfer, with or without remuneration, excluding rental and lending.
- (d) re-broadcasting of their transmission by wireless, cable, satellite or other similar technical means of communication to the public;
- (e) communication of their transmissions to the public.
- (f) adaptation as well as any change of their transmissions, fixed in any type of container;
- (g) import of lawful copies or of the authorized ones, of their transmissions, fixed in any kind of container, in the territory of the Republic of Albania.

2. The rights provided in paragraph (1) and (2) may not be transferred in exclusive or non-exclusive form, without abiding the right of the creating authors, interpreting and/or performing artists.

3. The provisions of paragraph (1), (g) are not applicable for the import performed by a person, for personal use.

SECTION II

Satellite Transmission of Programs

ARTICLE 100

Transmission by satellite

1.The activity of broadcasting to the public of programs of radio and television associations, via satellite, in the territory of the Republic of Albania, is based on the provisions of this law an in other legal provisions in force.

2. For the purpose of this law, “communication to the public by satellite” means the representation of the signals and programs into an uninterrupted chain of communication from the satellite down towards the earth, by the permission and under the control of competent state institutions, under the responsibility of a radio or television association, headquartered in the territory of the Republic of Albania.

ARTICLE 101

Decoding of the broadcasting signals of radio or television programs

1.If the signals for the transmissions of the programs can not be decoded by the receiving apparatus of radio and television, the presentation in the chain of communication is considered the communication to the public, on the condition that the transmission association provides the decoded means, with the permission and under the control of the competent state institutions.

2)The responsibility for the communication to the public, in case the signals of the programs are transmitted by an association seated out the borders of the Republic of Albania, is defined in the following ways:

- a) If the signals are transmitted by the satellite through an upper connection line, the responsibility is of the radio or television association headquartered in the territory of the Republic of Albania, which exploit the program.
- b) If the upper connection line is not used, but the transmission to the public is authorised by an association headquartered in the territory of the Republic of Albania, the responsibility is of the authorized radio or television association.

ARTICLE 102

Right-holder of the satellite transmission right

1) The title-holder of the copyright enjoys the right to authorise the radio or television association, to perform the communication to the public through the satellite, only on the basis of a written agreement made directly between them, or by an authorised representative.

2) The agreement between collective management agency and radio and television association, to permit the satellite communication to the public of a certain category of works, is valid also for that work of category, for which, the right to communicate it to the public, has not been transferred to by the right holder, on the condition that this kind of communication be made simultaneously with the terrestrial, by the same broadcasting association. In this occasion, the right holder for the communication of these works to the public, has given his written approval on the terms of the first agreement, prior to their communication to the public. Otherwise, the parties in agreement are responsible for the harm caused to the right holder for the communication to the public of these works.

- 3) The right of the title holder of communication to the public or of the collective administration agency on the remuneration shall be provisioned to be paid within 3 years from the date the notification on this broadcast is received.

SECTION III

Cable Transmission of the Programs

Article 103

The Right Holder of Cable Transmission Rights

1. The right holder of the copyright or of related rights may exercise his own right to authorize or prevent the cable transmission on the basis of the written contract concluded between the interested parties.
2. If a right holder has not transferred the copyright or the related rights to the collective management agency, the later shall be deemed to be mandated as lawful administrator of this right, under the reserve of the article 102, paragraph (2) of this law, which is being applied in analogy with the case of cable broadcast.
3. The right of the right-holder or of the collective management agency to ask for the remuneration, is prescribed within 3 years from the date of the notice for the transmission.

ARTICLE 104

The settlement of disputes

In case of disputes between parties, which are not settled by agreement, the parties appeal to the Albanian Copyright Office. If the parties does not reach an understanding, they have the right to lodge an appeal to the judiciary organs in compliance with the legislation in force.

ARTICLE 105

Cable transmissions from other states.

The cable transmission from other states to the territory of the Republic of Albania, is performed abiding the same conditions of this law regarding the transmissions within this territory.

TITTLE IV

MANAGEMENT OF THE COPYRIGHT

AND OF OTHER RELATED RIGHTS

CHAPTER I

Management of Economic Rights of the Author and of Related Rights

Section I General Provisions

Article 106

Title Holders of Economic Rights of the Author and of Related Rights

1. The right-holders of the copyright and of the related rights exert the rights granted by this Law in an individual way or through the collective management agencies .
2. The copyrights and related rights are protected by the right-holders themselves, by their representative or by an agency of the collective management, chosen on his free will.

Section II

Collective Management Agencies on Copyrights and/or on Related Rights

Article 107

Legal status

The collective management agencies of the copyright and/or related rights are legal persons, whose object of activity is collection of the revenues deriving from the use of the works and their distribution to the right holders of the copyright and of the related rights, who have assigned these rights to the above mentioned management agency.

Article 108

Way of functioning

- 1.The collective management agencies are non-profit organizations and are licensed by the Minister of the Culture, Youth and Sports on the proposal of the Albanian Copyright Office. Their organizational form and operation is performed according to the provisions of this law and of other legal provisions in force on non-profit organizations. In case of non-license grant, the applicant enjoys the right to acclaim based on the dispositions of Administrative Procedures Code of the Republic of Albania.
2. The agencies exert their activities within the boundaries of the targets being transferred from the authors, in compliance with provisions of this law and of the other legal provisions in force.
- 3.The establishment of the collective management agencies only by the radio and television associations, or by producers, publishers of the artistic, literary, or scientific works, is invalid without the participation of the authors or of the right-holders of related rights.

4. The collective management agencies are established according to the categories of works or of the branches of art.

Article 109

Licensing of the Agencies

1. The Minister of Culture, Youth and Sports grants license only to those collective management agencies headquartered in the Republic of Albania, having been established in compliance with the provisions of this law, and of the other legal provisions in force;
2. The license of collective management agencies to exert their activity, is valid for 3 years and may be renewed by the Minister of Culture, Youth and Sports for another 3 years' period, upon the delivery of a written request by the agencies.
3. The decision on delivery or on the renewal of the licenses enters into force after their publication in the "Official Gazette".

Article 110

The basic rules of the Statute of the Agencies

The statute of the collective management agencies contain provisions regarding:

- a. the value, the scope, and the object of its activity, definition of the managed rights;
- b. the terms on which the agency administrates the copyrights, on reliance to the principle of the equitable treatment of these rights;
- c. the rights and the obligations of the members to the collective management agency;
- d. the units of the administration and of representation, attributes and the activities;
- e. the fund of managed works and the potential economic sources;
- f. the applicable rules for distribution of the collected revenues;
- g. the rules for establishment of the commission by the right owners to cover the cost of management;
- h. the ways to supervise the financial and economic management;
- i. their organic set-up and function, according to the law in power.

Article 111

The Right for Collective Management of the Copyright and of Related Rights By the collective administration agencies

The Albanian collective administration agencies are entitled to transfer the copyright and the related rights administration to foreign associations, which run the copyright and the related rights on the same or similar art branch, based only on an agreement or contract concluded in written between them.

Section III

Responsibilities of Collective Management Agencies

Article 112

The obligation of the Agencies towards his members

The agency of collective management has the following obligations:

- a) to grant to the users of artistic, literary or scientific works, against the remuneration or certain tariff, the authorization to use the works it has in its administration.
- b) to declare tariffs for the use of the works, for which it manages the copyright and/or related rights.
- c) to conclude, on behalf of the right holder of the copyright or related rights, or on bases of reciprocity contract with the foreign similar agencies, the general agreements with show organizers, with radio and television associations, cable distributors, whose object is the authorization of shows and distribution of works managed.
- ç) to represent interests of their members regarding utilization of rights in the territories outside Albania, concluding reciprocity contracts with similar foreign agencies.
- d) to collect revenues from the users and distribute them to the right holders, in compliance with the statutory provisions and according to the declared tariffs.
- dh) based on the request, they should inform the right holders of the copyright and of the related rights, regarding the way of utilization of their rights, to communicate the annual financial report and the report on the financial revenue auditing;
- e) to provide professional assistance for the copyright and related rights title holders and to represent them during legal procedures in the framework of their statutory activities.
- f) to request from the users the submission of the necessary information and documentation on the estimation of the part of remuneration collected by the agency.

Article 113

The Obligations of the Agencies to the Albanian Office for Copyright

1. In pursuit of Article 112, paragraph (1), letter “b”, the collective management agencies are obliged to submit to the Albanian Copyright Office, the tariffs for the use of the works once a year within three months of the following year.
2. Upon the request of the interested party on a certain work, The Albanian Office for Copyright informs the concern party, within 30 days, about the collective administration agency possessing the rights on that work and the last tariff stated by this agency.

Article 114

The setting of the tariffs and the way of their distribution

1.The Collective Management Agencies are entitled the right to ask from the users, through negotiations, on behalf of the members whose rights they manage, less than 10% for the copyright, and not less than 3% for related rights of the revenues gained for the use of the literary, artistic and scientific work.

2.Each natural or legal person, who makes use of the literary, artistic or scientific work during his activity, is obliged to conclude a written contract with the authors, with the collective administration agency of the copyright and of related rights or with the proprietors of the respective work, which defines the obligations of the parties and the tariffs due to these latter, for each type of use. This contract shall be deposited and registered to the Albanian Copyright Office.

3.The collection of the tariffs on the use of the works from the users, shall be performed from the Collective Management Agency for the copyright and/or related rights for this work. The Agency shall declare these collections till 31 January of each year jointly with the annual balance sheet of the previous year.

4.The distribution of the collected tariffs from the collective administration agency to the authors or the title holder rights is made on the basis of the contract with the latter, and following the approval by the decision-making organs of the collective administration agencies. A copy of the report and of the benefiting authors' list is submitted to the Albanian Office on Copyright.

ARTICLE 115

Management by the Agency of the economic rights of the owners of the work

1.The exertion of the activity of collective management agency does not restrain the propriety rights of the work's proprietors;

2.The revenues of the Collective Management Agency, resulting from the encasing of a commission for the representing of the right-holders of the rights, shall be used to cover the management copyright and related right expenses, also for cultural purposes.

3.The Agency of Collective Management declares these revenues to the Copyright Albanian Office, till 31 March of each year along with the annual balance sheet of the previous year.

ARTICLE 116

The obligation to provide information

1.The Collective management agencies have the obligation to provide, within 10 days, the Copyright Albanian Office, with any information requested, in respect to exertion of their activity.

2.If the Collective management agencies does not act according to the provisions of paragraph 1 of this law, the Minister of Culture, Youth and Sports, upon the proposal of the Albanian Office of the Copyright, suspends the license of the said agency, for a period up to 6 months.

3. In case of non-abiding the obligations provisioned in paragraph 1 of this law, even after the suspension of the license, the Albanian Office for Copyright deliver to the Minister of Culture, Youth and Sports the proposal on revoke of the granted license.

CHAPTER II

THE ALBANIAN OFFICE FOR COPYRIGHT

ARTICLE 117

The Albanian Office for Copyright

1.The Albanian Office For the Copyright is a central institution, legal public person, dependent by the Minister of Culture, Youth and Sports, established to exercise an activity, based on and in pursuit of the Albanian legislation on copyright and other related rights, within the territory of the Republic of Albania.

2.The status, the object of the activity, the inner organization, the appointment, the release or the discharge of the head of the Albanian Office for the Copyright and other issues regarding the functioning of this Office, are approbated on the decision of the Council of Ministers.

CHAPTER III

LEGAL INDEMNIFICATION AND PENALIZING PROVISIONS

Section I

Civil Indemnification

ARTICLE 118

Provisions on the Exploitation Right

1.Every person who claims that any defined action shall prejudice the rights of the exploitation that he enjoys according to this law, or tries to prohibit the continuation or repetition of the infringing action carried out previously, enjoys the right to initiate the legal procedures through the competent authorities, to assure his right be recognized and the prejudicial action be prohibited.

2.The procedures shall be according to the provisions of this Section and to the provisions of the Civil Procedure Code of the Republic of Albania.

Article 119

The infringement of exertion of the right to perform the show in public

1. Every person who is title-holder of the right to perform the work in public, created for this kind of performance, including here the cinematography, audiovisual, theatrical works and musical compositions, enjoys the right, according to the provisions of this law and the legislation in force, to ask the Prefect of the District to prohibit every public performance on which doesn't exist any written evidence of his approval given for that performance, registered and certified by the Albanian Office of the Copyright, for the respective performance.

2. The Prefect, following the request, documents and any other written or material proof delivered to him, asks the Albanian Office for Copyright to verify the claim presented on the request for the prohibition of the public performance. After receiving the reply from the Albanian Office for Copyright, the Prefect decides to allow or forbid the performance of the work, a decision that is irrevocable. It may be appealed to the competent judicial authorities.

Article 120

The right for legal proceeding

1. Any person whose right to exploit his work has been prejudiced according to the provisions of this law, may begin the legal proceeding at the competent authorities to destroy or neutralize the materials and/or facilities, and to request the indemnification for the damage caused.

2. The decision to destroy or neutralize the materials and/or facilities, integral parts of the harmful action, has to be taken only by the competent tribunal after surveying expertise and the evaluation act have been carried out by respective experts appointed for this purpose by the Albanian Office of Copyright, who must be expressed for the acclaimed tasks in reference to the quality of the above mentioned materials and/or facility, in accordance to the requirements of the following provisions.

Article 121

The destruction or neutralization of the specimen and of the copy reproduced in prejudice to the law

1. The destruction or neutralization referred to in article 120 of this law, is carried out only for specimens and copies reproduced or multiplied in prejudice to this law, or for those equipment or means having been used for the reproduction or multiplication, which due to their attributes, can not be used for the reproduction or multiplication purposes of other works.

2. If a part of the specimen, copy, equipment or mean used for this case can be used for reproduction or multiplication of other works as well, the interested party has the right to ask for the separation of such a part on his own interest, against respective expenses for the full avoidance of the possibility of the previous usage.

3. If the specimen, copy, equipment or mean, for which the destruction or the neutralization have been requested, based on the assessment of the experts of

Albanian Office for Copyright has special artistic or scientific values, the Court decides mainly to be stored in a public museum.

4.The prejudiced person has the right to ask at any time that, the specimen, copy, equipment or mean, for which the destruction or the neutralization have been requested, to be transferred to him in exchange for the estimated value, subtracted from the compensation of the damage.

5.The provisions for the destruction or neutralization of the specimen, copy of the work or for their transfer to the person prejudiced on his exertion of the exploitation right of the work, are not applicable for the specimen or for the copies appropriated in good faith and for personal use.

Article 122

The sequestration of the work

The destruction or neutralization shall not be requested in the last year of the deadline for the exert of the exploitation right, but it may be decided on the sequestration of the work or of the production at any time, up to the expiry of this term. The sequestration is authorized even before the above mentioned term, if the derived damage from the harming of the exploitation right, has been compensated.

Article 123

The cases of confiscation

1.In order to progress the determined proceeding on the above mentioned articles, the competent organs may decide in the verdict for sequestration, the accomplishment of the inventory act, the report, the expertise of all things that constitute the material base for the prejudice of the right for exploitation. On the final decision, if the occasion occurs, the court decides upon the confiscation and sends it for administration to Albanian Office for the Copyright.

2.Albanian Office for the Copyright carries out above mentioned actions, after the interested person has paid the tariff for the respective service. The tariffs for the specialized services of the Albanian Office for the Copyright, are fixed by the decision of the Council of Ministers.

3.The confiscation can be carried out for materials and/or facilities deriving from the collaboration of two or more persons, except for the case when, for the prejudice of exploitation right, all collaborators are responsible, or when the persons who have acted in confidence, do not have the wish to continue the exercise of their rights on these materials and/or facilities, enjoying the right for indemnification from the collaborator acting in bad faith.

4.In very special cases, the judicial competent organs can decide upon the confiscation of all profits gained by the author of work or through the production of the proceeding object.

5.The provisions of this Section are applicable also for each person, who puts in circulation in any manner, or possess for commercial purposes non authorized copies of the computer programs or any mean or equipment, the only purpose of their use is

to make the neutralization easier or to obstruct any tool or equipment for the use of the protected computer program.

Article 124

The decision of competent organs

1.The provided measures in the above mentioned articles of this chapter, are taken on the basis of request of the interested person, through the decision of the competent organ, apart from the value of the work. This decision will remain in force until the final settlement of dispute.

2.For the same measure, the interested person has the right to ask for the application of the appropriate conservative measures.

3.To establish such a measures, the competent organ makes a hearing session of all parties included in the process. The minutes of the proofs and confessions of the present persons are written.

4.The decision taken for the prohibitive measures for public performances, is made known before its execution by the competent organs, or simultaneously with his execution. In such a case, the provisions of the Civil Procedures Code of the Republic of Albania are not applicable for suspension of execution of this decision.

Article 125

The penal procedure

If the measure for sequestration of the means, equipment or production, which constitute the object of the issue in discussion, has been taken in consequence of the commitment of an infringement or penal action, the decision maker organ presents the matter to the competent attorney's office to continue the penal procedure, in conformity with the provisions of Code of Penal Procedure and with other provisions in force.

Article 126

Representation in a civil or penal process

1.The author of a work, having been object of the right of the exploitation from another person on author's approval, enjoys the right that, starting from aforesaid proceedings on behalf of exploitation right holder, to protect his interests at any time. The author enjoys this right, apart from the approval or non-approval of the right of exploitation.

2.The actions of proceed commenced by the right holder of exploitation, to protect this right, are valid also for the author of the work, with the exception of the case when, for the reason of inability, inadvertence, disregard, non seriousness or of any other action or inaction, on the basis of which it is presumed that his rights are not exercised properly, therefore it might occur a property or personal non property damage, the author claims expressly to become a separate party in this process.

3. Each person, who becomes the lawful right-holder of this right, may exercise the manner of exploitation right provided for in this law.

Section II

Special Provisions of The Protection Procedures for the Personal non Propriety Rights

Article 127

Protection of non propriety rights

Afore said provisions are applicable *mutatis mutandis* also for the following provisions, object of their application is the exertion of the own non propriety rights and their protection, inasmuch as the nature of these rights permits this kind of application.

Article 128

Protection of the Authorship

The actions for the protection of non propriety own rights in regard to the authorship of a work, intend the neutralization or the destruction of the copy or production of this work, only if the harm can not be restored through amendment, a note in the work or through the advertisement regarding the authorship.

Article 129

The infringement of integrity of the work

The actions for the protection of non property personal rights regarding the infringement of the integrity of a work, intend the neutralization or the destruction of the copy or of the production of this deformed work, fragmented or modified, only if the copy or the reproduction of this work is materially impossible turned into its original form, on the expenses of the party contesting the neutralization or destruction.

SECTION III

Penal Administrative provisions

Article 130

The administrative infringement

1. The activity of any person, who for any purpose and in any way, has not previously registered and certified the object of his own activity in the Albanian Office of the Copyright, apart from being entitled or not of the legal right to carry out this activity,

it presumes to be an administrative infringement and is fined according paragraph 2 of this law, including the following:

- a) reproduces, bleaches(records) in a holder, recites in public, detaches, sells or offers for sale or in any case distributes the work of another person for commercial purposes, or shows the contents of such a work before it becomes public, or circulates inside the territory of Republic of Albania copy of the work, produced abroad ;
- b) performs, recites in public or detaches the work of another person, with or without additional options, created to be performed to the public or for musical composition, including the public show of a cinematography work, the public performance of musical compositions and their communication to the public through a powerful voice transmitter;
- c) carries out any aforesaid action through any kind of transformation or adaptation defined as such in this law;
- d) reproduces or performs shows surpassing the number for which has been granted the right;
- e) retransmit musical or audiovisual works through the radio or the television, or records in a phonogram holder or in other means, serving radio television transmission or retransmission or sells program holders or other similar to the voice or view -records means;
- f) multiplies computer programs for benefit purposes, or imports, distributes, sells, posses for commercial purposes or lends or rents such programs for the same purposes;
- g) multiplies or reproduces works created for cinematography or television distribution, records in a tape or in any type of holder capable to hold phonograms or videograms of cinematography, audiovisual works, or sequences of the movable views, for benefit purposes;
- h) offers for sale, lends or allows the use in any kind of manner, for benefit purposes, without being a participant in multiplication or reproduction of the work;
- i) inserts inside the territory of the Republic of Albania, performs public shows or broadcasts through a television the copies or reproductions mentioned in point (g) of this paragraph;
- j) sells, lends or rents videotapes, audio tapes, or any kind of holder, which contains phonograms or videograms of cinematography or audiovisual work, or sequences of the movable views, which are not provided with the artistic stamp of Albanian Office for the Copyright, according to the provisions of this law, on the basis of a license for the exertion of the commercial activity;
- k) does not declare to the Albanian Office for the Copyright, the selling of a drawing or of a printing in a flat holder of a price over 2.000 lek, of a picture with a price over 3.000 lek or of a sculpture with a price over 5.000 lek;
- l) carries out the actions as mediator, or as collective management agency for the rights of authors or of other artists, not being provided with a license to exert this activity by the Minister of Culture, Youth and Sports.

2. The administrative infringements provided for in paragraph (1) of this article, shall be punished with a fine as follows:

- a) for the cases provided for in the letters a, b, c, d, e, and k of the paragraph (1) of this article, with a fine 10.000 lek to 100.000 lek;
- b) for the case provided for in letter f, of the paragraph (1) of this article, with a fine 100.000 lek to 1.000.000 lek;
- c) for the cases provided for in letters g, h, and i, of the paragraph (1) of this article, with a fine 10.000 lek to 500.000 lek;

- d) for the cases provided for in the letter 1 of the paragraph (1) of this article, with a fine 25.000 lek to 850.000 lek.

3.The action of any legal person who is licensed as an agency of the collective management, when it:

a) does not deposit, till 31 March of each forerunning year, the annual balance-sheet of this year and does not declare the revenues resulting from the subtraction of the commission for representation of authors and/or other artists;

b) does not deposit the annual balance-sheet of the predecessor year and does not declare exact data and tariffs declared do not match the definition of paragraph 1 of article 113.

c) constitute administrative infringement and shall be punished with a fine respectively, for the letter (a) and (c), with 5.000 lek for each day in delay, while for the letter (b) of this paragraph it is 5% of the non declared sum for each delayed day.

4. The action or non action of each person, who hinders the representative of the Albanian Office for the Copyright to exercise the responsibilities in pursuit of the dispositions of this law and of the by-law acts of this law, constitute an administrative infringement and shall be fined from 100.000 Leks up to 250.000 leks.

Article 131

The Inspectors of the Albanian Office for Copyright

1. The measure of castigation with a fine for administrative infringements, is decided from the inspectors of the Albanian Office for the Copyright who have competence in the territory where the administrative infringement is accomplished and shall be executed by the competent tax-collector organs.

2.Is permitted the complaint against the punitive measure with a fine, for the administrative infringements foreseen in this law, within 10 days from the day of notice of the fine.

Article 132

The complaint against the fine

1. The complaint is treated by the authority of the respective unit of the Albanian Office for the Copyright having issued the penalty, otherwise this measure will be presumed accepted. The organ responsible for the treatment of the complaint must reply within 10 days from the date this complaint is deposited, whether it accepts it or not or shall revise the punitive measure. In case of non reply within this deadline, the complaint shall be assumed non-acceptable.

2.The complaint against the measure of fine for administrative infringement must contain the following elements to be valid:

- a) nomination of the complainant person and his full address ;

- b) the object for which exercises the right to complain, providing all the identifying elements of the punitive measure;
- c) the legal base pretended in his complaint;
- d) the organ to which the complaint is presented;
- e) a brief description of the reasons, of the facts and circumstances for which the complaint for punitive measure is lodged;
- f) the final request;
- g) the cash order for the fine in 50 % of the measure;
- h) all evidences where the pretension is based;

3. If the complainant is a legal person, in addition to the elements mentioned in the letters a – h, the court decision for the registration of the legal person, the first name and family name of representative, and the act of representation in case the complaint is not undersigned by the sender.

4. The Organ responsible for the treatment of the complaint shall not commence the procedure if half of the fine is not paid on the date of the complaint delivery, which shall be paid back to the complainant if the complaint is accepted. Otherwise the complaint shall be considered incomplete. In such a case, the organ responsible for the treatment of the complaint shall inform the complainant to complete the complaint within a five days deadline, starting from the date of notification. Otherwise the punitive measure shall be assumed accepted.

Article 133

The collection of fines

1. When the punitive measure remains in force, the decision on administrative infringement constitutes an executive order and the respective tax-collector organs are in charge to collect the fine according to the legislation in force, after the notice is given by the competent organ for the examination of the complaint .

2. Against the decision for the rejection of the complaint, the interested person enjoys the right to present the case to the competent court according to the legal provisions in force.

3. In this case the provisions of the Code of Civil Procedure for suspension of the sentence execution are not applicable.

TITLE III

APPLICATION OF THE LAW, TEMPORARY AND CONCLUDING PROVISIONS

Article 134

The protection of the foreign authors' rights and of the related rights

1. The works of the foreign authors are protected according to the dispositions of this law and of the international conventions, where the Republic of Albania has adhered to.

2. The related rights to the copyright, the title-holders of which are not Albanian citizens, enjoy the same protection according to the dispositions of this law and of the international conventions the Republic of Albanian has adhered to, if these rights are exercised within the territory of this latter.

FINAL PROVISIONS

Article 135

It is the Council of Ministers, which in appliance of article 117, paragraph 2, article 123, paragraph 2, to issue by-laws to implement this law within a year starting from its entry into force.

Article 136

Revocations

The law nr.7564, dated 19.05.1992 “ On the Copyright”, the amended one, the Decision Nr. 309, dated 13.06.2000 of the Council of Ministers “ on the tariffs of artistic property users” and any other legal act or by-law violating this law, shall be abrogated.

Article 137

Entry into force

This law comes into force 15 days after the publication in the Official Gazette.

CHAIRMAN

SERVET PELLUMBI

