Law on Copyright and Neighboring Rights*

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TABLE OF CONTENTS**

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TITLE I
COPYRIGHT

Part I
General Provisions

Chapter I
Introductory Provisions

Art. 1.—(1) The copyright in a literary, artistic or scientific work and in any similar work of intellectual creation shall be recognized and guaranteed as provided in this Law. That right vests in the author and embodies attributes of moral and economic character.

(2) A work of intellectual creation shall be acknowledged and protected, independently of its disclosure to the public, simply by virtue of its creation.

Art. 2. Recognition of the rights provided for in this Law shall not prejudice or exclude protection granted under other statutory provisions.

Chapter II
Ownership of Copyright

Art. 3.—(1) The natural person or persons who created the work shall be the author thereof.

(2) In cases expressly provided for by law, legal entities and natural persons other than the author may benefit from the protection granted to the author.

(3) Ownership of copyright may be transferred as provided by law.

Art. 4.—(1) Unless proved otherwise, the person under whose name the work was first disclosed to the public shall be presumed to be the author thereof.

(2) Where the work was disclosed to the public anonymously or under a pseudonym that does not identify the author, the copyright shall be exercised by the person whether natural person or legal entity who discloses it to the public with the author's consent, as long as the latter does not disclose his identity.

Art. 5.—(1) A work of joint authorship shall be a work created by several co-authors in collaboration.

(2) The copyright in a work of joint authorship shall belong to the co-authors thereof, one of whom may be the main author as provided in this Law.

(3) Unless otherwise agreed, co-authors may only exploit the work by common consent. Refusal of consent by any one of the co-authors must be fully justified.

(4) Where each co-author's contribution is distinct, that contribution may be exploited separately, provided that it does not prejudice the exploitation of the joint work or the rights of the other co-authors.

(5) In the case of the utilization of a work of joint authorship, the remuneration shall accrue to the co-authors in the proportions they shall have agreed upon. Failing such agreement, the remuneration shall be divided in proportion to the share contributed by each author, or equally if such shares cannot be determined.

Art 6.—(1) A collective work shall be a work in which the personal contributions of the co-authors form a whole, without it being possible, in view of the nature of the work, to ascribe a distinct right to any one of the co-authors in the whole work so created.

(2) Unless otherwise agreed, the copyright in a collective work shall belong to the person, whether natural person or legal entity, on whose initiative and responsibility and under whose name the work was created.

Chapter III
Subject Matter of Copyright

Art. 7. The subject matter of copyright shall be original works of intellectual creation in the literary, artistic, or scientific field, regardless of their manner of creation, specific form or mode of expression and independently of their merit and purpose, such as:

(a) literary and journalistic writings, lectures, sermons, pleadings, addresses and any other written or oral works, and also computer programs;

(b) scientific works, written or oral, such as presentations, studies, university textbooks, school textbooks and scientific projects and documentation;

(c) musical compositions with or without words;

(d) dramatic and dramatico-musical works, choreographic and mimed works;

(e) cinematographic works and any other audiovisual works;

(f) photographic works and any other works expressed by a process analogous to photography;

(g) works of three-dimensional art such as: works of sculpture, painting, drawing, engraving, lithography, monumental art, stage design, tapestry, ceramics, glass and metal shaping, and also works of art applied to products intended for practical use;

(h) works of architecture, including sketches, scale models and the graphic work that constitutes an architectural project;

(i) three-dimensional works, maps and drawings in the field of topography, geography and science in general.

Art. 8. Without prejudice to the rights of the authors of the original work, copyright shall likewise subsist in derived works created on the basis of one or more pre-existing works, namely:

(a) translations, adaptations, annotations, documentary works, arrangements of music and any other transformation of a literary, artistic or scientific work that themselves entail creative intellectual effort;

(b) collections of literary, artistic or scientific works, such as encyclopaedias, anthologies and collections and compilations of protected or unprotected material or data, including databases, which, by reason of the selection or arrangement of their subject matter constitute intellectual creations.

Art. 9. The following shall not benefit from the legal protection accorded to copyright:

(a) the ideas, theories, concepts, discoveries and inventions contained in a work, whatever the manner of the adoption, writing, explanation or expression thereof;

(b) official texts of a political, legislative, administrative or judicial nature, and official translations thereof;

(c) official symbols of the State, public authorities and organizations, such as armorial bearings, seals, flags, emblems, shields, badges and medals;

(d) means of payment;

(e) news and press information;

(f) simple facts and data.

Chapter IV
Content of Copyright

Art. 10. The author of a work shall have the following moral rights:

(a) to decide whether, how and when the work will be disclosed to the public;

(b) to demand recognition of his authorship of the work;

(c) to decide under what name the work will be disclosed to the public;

(d) to demand respect for the integrity of the work and to oppose any modification or any distortion of the work if it is prejudicial to his honor or reputation;

(e) to withdraw the work, subject to indemnification of any owners of exploitation rights who might be prejudiced by the exercise of the said withdrawal right.

Art. 11.—(1) The moral rights may not be renounced or disposed of.

(2) After the author's death, the exercise of the rights provided for in Article 10(b) and (d) shall be transferred by inheritance, in accordance with civil legislation, for an unlimited period. If there are no heirs, the excercise of the said rights shall revert to the Romanian Copyright Office.

Art. 12. The author of a work shall have the exclusive economic right to decide whether, how, and when his work is to be used or exploited, including the right to authorize the use of the work by others.

Art. 13. The use or exploitation of a work gives the author distinct and exclusive rights to authorize:

(a) complete or partial reproduction of the work;

(b) dissemination of the work;

(c) importation, for marketing on the territory of Romania, of copies of the work made with the author's consent;

(d) presentation on stage, recitation, or any other form of performance or direct presentation of the work in public;

(e) public exhibition of works of three-dimensional and applied art, photographic works and works of architecture;

(f) public showing of cinematographic and of other audiovisual works;

(g) broadcasting of a work by any means of wireless transmission of signals, sounds or images, including by satellite;

(h) transmission of a work to the public by wire, cable, optic fiber or any other means;

(i) communication to the public by means of sound and audiovisual recordings;

(j) the simultaneous, complete retransmission of a work, without alteration, by any of the means mentioned in paragraphs (g) and (h) by a broadcasting organization other than that with which the broadcast or televised work originated;

(k) secondary dissemination;

(l) presentation in a public place, by any means, of a broadcast or televised work;

(m) public access to computer databases where those databases contain or constitute protected works.

Art. 14.—(1) For the purposes of this Law, reproduction means the making of one or more copies of a work in any material form, including the making of an audiovisual recording of the work, and also its permanent or temporary storage by electronic means.

(2) For the purposes of this Law, dissemination means the distribution to the public of the original or copies of a work by sale, rental, lending, or by any other means of disposal, either for a consideration or free of charge.

(3) Distribution to the public by the lending of a work free of charge shall not be considered circulation where it is made through the agency of public libraries.

Art. 15.—(1) The use or exploitation of a work in any of the ways mentioned in Article 13(d) and (e) as well as in any other similar manner shall constitute communication to the public.

(2) The communication of a work shall be considered public if it is made in a place open to the public or in any place in which a number of people gather who are more than the normal circle of family members or acquaintances, regardless of whether or not the persons constituting that public capable of receiving the said communication are able to do so in the same place or in different places, or at the same time or at different times.

(3) The redistribution of copies of a work shall not require the copyright owner's authorization, except in the case of the lending or importation thereof.

Art. 16. The author of a work shall have the exclusive economic right to authorize the translation, publication in collections, adaptation and any other transformation of his work by which a derived work is obtained.

Art. 17.—(1) The author of a literary or artistic work shall enjoy the exclusive right to authorize the renting of the originals and copies of his works, including audiovisual works, works included in a sound recording, a computer program or a work that may be used by a computer or any other technical device, even after the distribution thereof with the author's consent.

(2) The right to authorize the rental of a work consists in the author's exclusive right to make the original or copies of the work available for use for a limited period in exchange for a direct or indirect economic advantage.

Art. 18.—(1) Public lending consists in making the original or a copy of a work available to a person for use free of charge, for a set period of time, through the agency of an institution that allows the public access to it for that purpose. Public lending shall not require prior authorization by the author.

(2) Public lending shall entitle the owner of the copyright to equitable remuneration.

(3) The provisions of paragraph (2) shall not apply to:

(a) originals or copies of written works in public libraries;

(b) projects for architectural structures;

(c) originals or copies of art works applied to products intended for practical use;

(d) originals or copies of works for communication to the public, or for the use of which there is a contract;

(e) reference works for immediate use or for lending between institutions;

(f) works created by the author within the framework of his individual contract of employment, if they are used by the author's employer as part of the latter's usual activity.

(4) The provisions of paragraph (2) shall not apply in the case of public lending for educational or cultural uses through institutions recognized by law or created for the purpose by the authorities.

(5) The public lending of works incorporated in sound or audiovisual recordings shall take place only after six months have elapsed since the first dissemination of the work and not earlier.

Art. 19. The right of communication to the public by means of sound or audiovisual recordings consists in the author's exclusive right to authorize the communication to the public of readings, musical or stage performances or any other form in which his work may be incorporated in a sound or audiovisual recording.

Art. 20. The right of secondary distribution consists in the author's exclusive right to authorize the communication of his work to the public, after the first dissemination thereof, by any of the means mentioned in Article 13(g), (h), (i), (j), and (l).

Art. 21.—(1) Each time that a work of three-dimensional art is sold at public auction or through an agent, or by a dealer, the author shall be entitled to claim five per cent of the selling price and also to be informed of the work's whereabouts.

(2) The auctioneers, agents and dealers involved in the sale shall convey the information referred to in paragraph (1) of this Article to the author within two months of the day of sale. They shall also be responsible for withholding five per cent from the selling price and for paying the corresponding sum to the author.

(3) The rights under this Article constitute the resale royalty right and may not be renounced or disposed of.

Art. 22. The owner or possessor of a work is obliged to allow the author access to it and place it at his disposal where necessary for the exercise of his copyright, provided that the owner or possessor's legitimate interests are not thereby prejudiced. The owner or possessor may in such a case claim a sufficient guarantee from the author for the security of the work, and also the insurance thereof for an amount representing the market value of the original, and adequate remuneration.

Art. 23.—(1) The owner of the original of a work shall not have the right to destroy it before having offered it to the author at the cost price of the material.

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

(3) In the case of an architectural structure, the author shall have the right only to take photographs of the work and to request the return of reproductions of the projects.

Chapter V
Duration of Copyright Protection

Art. 24.—(1) The copyright in a literary, artistic or scientific work shall come into being at the time of the work's creation, regardless of the specific form or manner of expression thereof.

(2) If the work is created over a period of time in installments, episodes, volumes or any other form of sequence, the term of protection shall be calculated according to paragraph (1) for each such element.

Art. 25.—(1) The economic rights provided for in Articles 13, 16, 17, 18 and 21 shall last for the author's lifetime, and after his death shall be transferred by inheritance, according to civil legislation, for a period of 70 years, regardless of the date on which the work was legally disclosed to the public. If there are no heirs, the exercise of these rights shall devolve upon the collective administration organization mandated by the author during his lifetime or, failing a mandate, to the collective administration organization with the largest membership in the area of creation concerned.

(2) The person who, after the copyright protection has expired, legally discloses a previously unpublished work to the public shall enjoy protection equivalent to that of the author's economic rights.

The duration of the protection of those rights shall be 25 years, starting at the time of the first legal disclosure to the public.

Art. 26.—(1) The term of the economic rights in works disclosed to the public under a pseudonym or without a mention of the author's name shall be 70 years from the date on which they were disclosed to the public.

(2) Where the author's identity is revealed to the public before the term mentioned in paragraph (1) expires, the provisions of Article 25 (1) shall apply.

Art. 27.—(1) The term of the economic rights in works of joint authorship shall be 70 years from the death of the last surviving co-author.

(2) Where the contributions of the co-authors are distinct, the term of the economic rights in each such contribution shall be 70 years from the death of the author thereof.

Art. 28. The term of the economic rights in collective works shall be 70 years from the date of disclosure of the works. Where disclosure does not occur for 70 years following the creation of the works, the term of the economic rights shall expire 70 years after the said creation.

Art. 29. The term of the economic rights in works of applied art shall be 25 years from the creation thereof.

Art. 30. The economic rights in computer programs shall last for the lifetime of the author thereof and after his death shall be transferred by inheritance, according to civil legislation, for a period of 50 years.

Art. 31. Non-essential modifications, additions, cuttings or adaptations made with a view to selection or arrangement, and also corrections to the content of a work or collection, that are necessary for the continuation of the collection in the manner intended by the author of the work shall not extend the term of protection of the said work or collection.

Art. 32. The terms established in the present Chapter shall be calculated from the first of January of the year following the author's death or the date on which the work was disclosed to the public, as the case may be.

Chapter VI
Limitations on the Exercise of Copyright

Art. 33.—(1) The following uses of a work already disclosed to the public shall be permitted without the author's consent and without payment of remuneration, provided that such uses conform to proper practice, are not at variance with the normal exploitation of the work and are not prejudicial to the author or to the owners of the exploitation rights:

(a) the reproduction of a work in connection with judicial or administrative proceedings, to the extent justified by the purpose thereof;

(b) the use of brief quotations from a work for the purpose of an analysis, commentary or criticism, or for illustration, to the extent justified by use thereof;

(c) the use of isolated articles or brief excerpts from works in publications, television or radio broadcasts or sound or audiovisual recordings exclusively

intended for teaching purposes and also the reproduction for teaching purposes, within the framework of public education or social welfare institutions, of isolated articles or brief extracts from works, to the extent justified by the intended purpose;

(d) the reproduction of brief excerpts from works for information or research within the framework of libraries, museums, film archives, sound archives, archives of non-profit cultural or scientific public institutions; the complete reproduction of a copy of a work shall be allowed for the replacement of the sole copy in such an archive or library's permanent collection in the event of the destruction, serious deterioration or loss thereof;

(e) the reproduction, circulation or communication to the public for the purpose of information on current topics, of short excerpts from press articles and radio or television documentary broadcasts;

(f) the reproduction, circulation or communication to the public of short fragments of lectures, addresses, court pleadings and other such works expressed orally in public, on condition that those uses are intended solely to provide information on current events;

(g) the reproduction, circulation or communication of works to the public in the reporting of current events, but only to the extent justified by the informatory purpose;

(h) the reproduction, to the exclusion of any means involving direct contact with the work, circulation or communication to the public of the image of an architectural work, work of three-dimensional art, photographic work or work of applied art permanently located in a public place, except where the image of the work is the principal subject of such reproduction, circulation or communication, and if it is used for commercial purposes;

(i) the representation and execution of a work as part of the activities of educational institutions, exclusively for specific purposes and on condition that both the representation or execution and the public's access are free of charge.

(2) In the cases provided for in subparagraphs (b), (c), (e), (f), and (h) it shall be mandatory to mention the source and the author's name if it appears on the work used, and, also in the case of works of three-dimensional art or architectural works, the place in which the original is to be found.

Art. 34.—(1) It shall not be a violation of copyright, within the meaning of this Law, to reproduce a work without the author's consent for personal use or for use by a normal family circle, on condition that the work has already been disclosed to the public, that the reproduction does not adversely affect the normal exploitation of the work or prejudice the author or the owner of the exploitation rights.

(2) In the situation provided for in paragraph (1), remuneration established according to the provisions of this Law shall be paid for the physical materials on which sound or audiovisual recordings may be made, and for devices serving for the reproduction thereof.

Art. 35. The alteration of a work shall be permissible without the author's consent and without payment of remuneration in the following cases:

(a) if the alteration is made privately and is neither intended for nor made available to the public;

(b) if the result of the alteration is a parody or caricature, provided that the said result does not cause confusion with the original work and the author thereof;

(c) if the alteration is made necessary by the purpose of the use permitted by the author.

Art. 36.—(1) Works shown at exhibitions open to the public, at auctions or fairs or in collections may be reproduced in catalogues published and distributed for the purpose of such activities by the organizers thereof.

(2) In the cases mentioned in paragraph (1) it shall be mandatory to specify the source as well as the authorship of the work in so far as they are mentioned on the work used.

Art. 37. For the purpose of testing the operation of their products at the time of manufacture or sale, trading companies engaged in the production or sale of sound or audiovisual recordings, equipment for the reproduction or communication to the public thereof and also equipment for receiving radio and television broadcasts may reproduce and present extracts from works, provided that such acts are performed only to the extent required for testing.

Art. 38.—(1) Authorization to broadcast a work by wireless means shall also constitute authorization to transmit the work by wire cable, or any other similar process without payment of separate remuneration, provided that the broadcast is made without alteration, simultaneously and in full by the original broadcasting organization and does not go beyond the geographical area for which the right of broadcasting was granted.

(2) The provisions of paragraph (1) of this Article shall not apply to the digital broadcasting of a work by whatever means.

(3) The transfer of the right to communicate a work to the public by radio or television shall entitle the broadcasting organization to record the work for its own wireless transmissions with a view to a single authorized transmission to the public. A new authorization shall be required for any new broadcast of the work so recorded. If no such authorization is requested within six months following the first broadcast, the recording shall be destroyed.

Chapter VII
Transfer of the Author's Economic Rights

SECTION I
COMMON PROVISIONS

Art. 39.—(1) The author or the owner of the copyright may transfer only his economic rights by contract to other persons.

(2) That transfer of the author's economic rights may be limited to certain rights, to a certain territory, and to a certain period of time.

(3) The economic rights of the author or the owner of the copyright may be passed on by exclusive or non-exclusive transfer.

(4) In the case of exclusive transfer, not even the owner of the copyright shall be allowed to use the work in the manner, on the territory and for the term agreed with the transferee, or to transfer the rights concerned to another person. The exclusive character of the transfer shall be expressly stated in the contract.

(5) In the case of a non-exclusive transfer, the owner of the copyright may use the work himself, and may also transfer the non-exclusive right to other persons.

(6) The non-exclusive transferee may not transfer his rights to another person without the express consent of the transferor.

(7) The transfer of one of the economic rights of the owner of the copyright shall have no effect on his other rights, unless otherwise agreed.

(8) The consent mentioned in paragraph (6) shall not be required where the transferee is a legal entity and is transformed by one of the processes provided for by law.

Art. 40. In the case of transfer of the right of reproduction of a work, it shall be presumed that the right of distribution of copies of that work has also been assigned, with the exception of the right of importation, unless otherwise provided by contract.

Art. 41.—(1) The contract for the transfer of the economic rights shall specify the economic rights transferred, the forms of exploitation, the duration and scope of the transfer and the remuneration payable to the copyright owner. The absence of any of these elements shall entitle the interested party to apply for cancellation of the contract.

(2) Any transfer of the economic rights in all of the author's future works, whether designated or not, shall be null and void.

Art. 42. The existence and content of the contract of transfer of the economic rights may be proved only by the written form thereof, except in the case of contracts relating to works used in the press.

Art. 43.—(1) The remuneration payable under a contract for the transfer of economic rights shall be established by agreement between the parties. The amount of the remuneration shall be calculated either in proportion to the sums collected from the exploitation of the work, or as a lump sum, or in any other way.

(2) Where the remuneration has not been fixed by contract, the author may request the competent jurisdictional bodies to do so, as provided by law. The remuneration shall be fixed according to the amounts usually paid for the same class of work, the purpose and duration of exploitation and other circumstances relevant to the case.

(3) Where there is an obvious disproportion between the remuneration of the author of the work and the profits of the person who has secured the transfer of the economic rights, the author may request the competent jurisdictional bodies to revise the contract or increase the remuneration accordingly.

(4) The author may not beforehand waive the exercise of his right under paragraph (3).

Art. 44.—(1) Unless otherwise provided in the contract, the economic rights in a work created under an individual employment contract shall belong to the author of the work so created. If such a clause does exist, it shall specify the period for which the author's economic rights have been transferred. Where no such period has been specified, it shall be three years from the date on which the work is handed over.

(2) On expiration of the period specified under paragraph (1) the economic rights shall revert to the author.

(3) The author of a work created under an individual employment contract shall retain the exclusive right to use the work as part of the whole of his creation.

Art. 45.—(1) Unless otherwise agreed, the owner of the copyright in a work appearing in a periodical publication shall retain the right to use it in any form, provided that the publication in which the work appears is not thereby prejudiced.

(2) Unless otherwise agreed, the owner of the copyright may dispose freely of the work if it has not been published within a month of its acceptance in the case of a daily paper, or within six months in the case of other publications.

Art. 46.—(1) The contract commissioning a future work shall specify both the time limit for delivery of the work by the author and the time limit for acceptance of the work by the users.

(2) The person commissioning the work shall have the right to terminate the contract if the work does not meet the conditions set. Where the contract is terminated, any sums collected by the author shall not be refundable. Where preparatory work has been done with a view to the creation of a work under a commission, the author shall be entitled to repayment of any expenses incurred.

Art. 47.—(1) The author may request the cancellation of a contract assigning his economic rights where the assignee fails to exploit them or exploits them to an insufficient extent, thereby seriously affecting the author's legitimate interests.

(2) The author may not request the cancellation of the contract if the grounds for non-exploitation or insufficient exploitation are attributable to him, to a third party, to an accident or to *force majeure*.

(3) Cancellation of a contract of assignment under paragraph (1) may not be requested before two years have expired following the assignment of the economic rights in a work. That period shall be three months in the case of works assigned for daily publications, and a year in the case of periodical publications.

(4) The owner of the original of a work of three-dimensional or photographic art shall have the right to exhibit it in public, even if it has not been disclosed to the public, except where the author has expressly excluded that right in the instrument of disposal of the original.

(5) The author may not waive in advance the exercise of his right to request cancellation of the transfer contract mentioned under paragraph (1).

(6) Acquisition of ownership of the material in which the work is embodied shall not in itself confer the right to exploit the work.

SECTION 2
PUBLISHING CONTRACT

Art. 48.—(1) The publishing contract is an instrument by which the owner of the copyright assigns to the publisher, in exchange for remuneration, the right to reproduce and distribute the work.

(2) An agreement by which the owner of the copyright in a work empowers a publisher to reproduce and possibly also to distribute the work at the former's expense shall not constitute a publishing contract.

(3) In the situation referred to in paragraph (2) the provisions of ordinary legislation on corporate contracts shall apply.

Art. 49. The owner of the copyright may also assign to the publisher the right to authorize the translation and adaptation of the work.

Art. 50. The assignment to the publisher of the right to authorize other persons to adapt the work or use it in some other way shall require the conclusion of a separate contract.

Art. 51.—(1) The publishing contract shall include clauses specifying:

(a) the duration of the assignment;

(b) the exclusive or non-exclusive character and the territorial scope of the assignment;

(c) the minimum and maximum numbers of copies;

(d) the author's remuneration, determined in accordance with this Law;

(e) the number of copies reserved for the author free of charge;

(f) the time limit for the publication and distribution of the copies of each edition or of each printing, as the case may be;

(g) the time limit for the delivery of the original of the work by the author;

(h) the procedure for the verification of the number of copies produced by the publisher.

(2) The absence of any of the clauses mentioned in subparagraphs (a) (b) and (d) shall entitle the interested party to request cancellation of the contract.

Art. 52.—(1) The publisher who has acquired the copyright in a work in book form shall have precedence over other similar bidders offering the same price for the publication of the work in electronic form. The publisher shall submit his bid in writing no later than 30 days after having received the author's written offer.

(2) The right mentioned in paragraph (1) shall be valid for a period of three years following the publication date of the work.

Art. 53. The publisher shall be obliged to allow the author to make improvements or other alterations to the work in a new edition, provided that the improvements or alterations do not substantially increase the publisher's costs, or change the character of the work, unless otherwise provided in the contract.

Art. 54. The publisher may assign the publishing contract only with the author's consent.

Art. 55. The publisher shall be obliged to return to the author the original of the work, the originals of artistic works and illustrations and any other material received for publication, unless otherwise agreed.

Art. 56.—(1) Unless otherwise agreed, the publishing contract shall end when the set term thereof expires or when the last agreed edition is exhausted.

(2) An edition or printing shall be considered exhausted if the number of unsold copies is smaller than five per cent of the total number of copies, and in any event if it falls below 100.

(3) Where the publisher fails to publish the work within the agreed period, the author may, in accordance with ordinary legislation, request cancellation of the contract and damages for non-fulfillment. In that case the author shall retain any remuneration received, or, as the case may be, may request payment of the full amount of the remuneration provided for in the contract.

(4) If the time limit for the publication of the work is not specified in the contract, the publisher shall be obliged to publish it within a period of not more than one year following the date of its acceptance.

(5) Where the publisher intends to destroy the copies remaining in stock after a period of two years from the publishing date, and if no other period is specified in the contract, the publisher shall be obliged to offer them first to the author at the price that he would have received by selling them for destruction.

Art. 57.—(1) Where the work is destroyed for reasons of *force majeure*, the author shall be entitled to remuneration, which shall be paid to him only if the work was published.

(2) Where a prepared edition is totally destroyed for reasons of *force majeure* before it is distributed, the publisher shall be entitled to prepare a new edition, and the author shall be entitled to remuneration for only one of those editions.

(3) Where a prepared edition is partly destroyed for reasons of *force majeure* before it is distributed, the publisher shall be entitled to reproduce only as many copies as were destroyed without paying remuneration to the author.

SECTION 3
THEATRICAL OR MUSICAL PERFORMANCE CONTRACT

Art. 58. Under a theatrical or musical performance contract the owner of the copyright assigns to a natural person or legal entity the right to perform or execute in public a present or future literary, dramatic, musical, dramatico-musical, choreographic

or mimed work in exchange for remuneration, and the transferee is obliged to execute or to perform it under the agreed conditions.

Art. 59.—(1) The theatrical or musical performance contract shall be concluded in writing for a specified period of time and for a specified number of communications to the public.

(2) The contract shall stipulate the time limit by which the first performance or sole communication of the work shall take place, as the case may be, the exclusive or non-exclusive character of the transfer, the area or territory covered and the remuneration payable to the author.

(3) Any interruption of performances for two consecutive years, if no other term has been provided for in the contract, shall entitle the author to request cancellation of the contract and damages for non-fulfillment, as provided in ordinary legislation.

(4) The beneficiary of a theatrical or musical performance contract may not assign it to a third party who is an entertainment organizer without the consent of the author, or that of his representative where applicable, except in conjunction with the total or partial transfer of his activity.

Art. 60.—(1) The assignee shall be obliged to permit the author to oversee the performance of the work and provide adequate support to ensure that the technical conditions for the performance are fulfilled. The assignee shall likewise send to the author the program, posters and other printed material and also reviews published on the performance, unless otherwise provided in the contract.

(2) The assignee shall be obliged to ensure the public performance of the work under adequate technical conditions and also the observance of the author's rights.

Art. 61.—(1) The assignee shall be obliged periodically to communicate to the owner of the copyright the number of theatrical or musical performances and also the state of the takings. To that end, the theatrical or musical performance contract shall also specify the intervals between such communications, which shall not however be fewer than one a year.

(2) The assignee shall pay the author, by the time limits specified in the contract, the prescribed sums in the agreed amounts.

Art. 62. If the assignee fails to perform the work within the period stipulated, the author may request cancellation of the contract and damages for non-fulfillment under the provisions of ordinary legislation. In that case the author shall retain any remuneration received or, as the case may be, may request payment of the full amount of the remuneration provided for in the contract.

SECTION 4
RENTAL CONTRACT

Art. 63.—(1) Under a contract for the rental of a work, the author undertakes to allow the use, for a specified period of time, of at least one copy of his work, whether the original or a reproduction thereof, in the case especially of computer programs or works

embodied in sound or audiovisual recordings. The assignee of the rental right undertakes to pay remuneration to the author for as long as he uses the copy of the work.

(2) The author shall retain the copyright in the work rented, with the exception of the right of distribution, unless otherwise agreed.

(3) The contract for the rental of a work shall be governed by the provisions of the ordinary legislation on rental contracts.

Part II
Special Provisions

Chapter VIII
Cinematographic Works and Other Audiovisual Works

Art. 64. An audiovisual work is a cinematographic work, or a work expressed by a procedure similar to cinematography, which makes use of moving images or a combination of sound and images.

Art. 65.—(1) The director or maker of an audiovisual work is the natural person who oversees the creation and production of the audiovisual work in the capacity of main author.

(2) The producer of an audiovisual work is the person, whether natural person or legal entity, who takes responsibility for the production of the work and in that capacity organizes the making of the work and provides the necessary technical and financial resources.

Art. 66. The authors of an audiovisual work, as provided in Article 5 of this Law, are the director or maker, the author of the adaptation, the author of the screenplay, the author of the dialogue, the author of the musical score specially composed for the audiovisual work and the author of the graphic material of animated works or animated sequences, where these represent a substantial part of the work. In the contract between the producer and the director or maker of the audiovisual work, the parties may agree to include other creators who have contributed substantially to the creation of the work as authors thereof.

Art. 67.—(1) Where one of the authors within the meaning of the foregoing Article refuses to complete his contribution to the audiovisual work, or is prevented from doing so, he may not object to its use for the completion of the said work. He shall have the right to be remunerated for the completed portion of his contribution.

(2) The audiovisual work shall be considered completed when the final version has been established by common consent between the main author and the producer.

(3) The destruction of the original medium embodying the final version of the audiovisual work and constituting the standard copy shall be prohibited.

(4) The authors of the audiovisual work other than the main author may not object to its disclosure to the public or to the exploitation in any way of the final version thereof.

Art. 68.—(1) The right of audiovisual adaptation is the exclusive right of the owner of the copyright in a pre-existing work to transform it into or include it in an audiovisual work.

(2) Assignment of the right provided for in paragraph (1) may take place only on the basis of a written contract, distinct from the publishing contract for the work, between the owner of the copyright and the producer of the audiovisual work.

(3) Under the adaptation contract, the owner of the copyright in a pre-existing work transfers to a producer the exclusive right of transformation of the said work and its inclusion in an audiovisual work.

(4) The authorization granted by the owner of the copyright in the pre-existing work shall expressly state the conditions governing the production, distribution and projection of the audiovisual work.

Art. 69. The moral rights in a finished work shall be recognized only to the authors thereof as provided in Article 66 of this Law.

Art. 70.—(1) In the contract between the authors of an audiovisual work and the producer thereof, unless otherwise agreed, it shall be presumed that the former, with the exception of the authors of the music specially composed, assign to the latter their exclusive rights with respect to the exploitation of the work as a whole, as provided in Articles 13(a), (b), (c), (f), (g), (h), (i), (j), (k) and (l), 16, 17, and 18, and also the right to authorize dubbing and subtitling, in exchange for fair remuneration.

(2) Unless otherwise agreed, the authors of an audiovisual work and other authors of contributions to it shall retain all rights in the separate exploitation of their own contributions, as provided in this Law.

Art. 71.—(1) Unless otherwise agreed, the remuneration for each mode of exploitation of the audiovisual work shall be proportional to the gross earnings deriving from that exploitation.

(2) The producer shall be obliged periodically to submit to the authors an account of the takings according to each mode of exploitation. The authors shall receive their due remuneration either through the producer or directly from the users, or again through the organizations for the collective administration of copyright on the basis of the general contracts that the latter have concluded with the users.

(3) Where the producer fails to complete the audiovisual work within a period of five years after the conclusion of the contract, or fails to distribute the said work within a year of its completion, the co-authors may request cancellation of the contract, unless otherwise agreed.

Chapter IX
Computer Programs

Art. 72.—(1) Under this Law, the protection of computer programs includes any expression of a program, application programs and operating systems expressed in any kind of language, whether in source code or object code, the preparatory design material and the manuals.

(2) The procedures, operating methods, mathematical concepts and principles underlying any element in a computer program, including those underlying its interfaces, are not protected.

Art. 73. The author of a computer program shall enjoy by analogy the rights provided for in Part I of the present Title of this Law, and especially the exclusive right to do and authorize the following:

(a) temporary or permanent reproduction of a program in its entirety or in part, by any means and in any form, including where the reproduction is necessitated by the loading, display, transmission or storage of the program;

(b) translation, adaptation, arrangement and any other transformation of a computer program, including the reproduction of the result of those operations, without prejudice to the rights of the person who transforms the program;

(c) distribution of the original or copies of a computer program in any form, including rental.

Art. 74. Unless otherwise agreed, the economic rights in computer programs created by one or more employees in the course of their duties or on instructions from their employer shall belong to the latter.

Art. 75.—(1) Unless otherwise agreed, a contract for the use of a computer program shall assume that:

(a) the user has been granted the non-exclusive right to use the program;

(b) the user may not transfer the right to use the program to another person.

(2) Transfer of the right to use a computer program shall not imply transfer also of the copyright in it.

Art. 76. Unless otherwise agreed, the authorization of the copyright owner shall not be required for the acts provided for in Article 73(a)and (b) where they are necessary to permit the acquirer to use the computer program in a manner that corresponds to its purpose, including for the correction of errors.

Art. 77.—(1) The authorized user of a computer program may, without authorization from the author, make an archive or reserve copy where necessary for the use of the program.

(2) The authorized user of a computer program copy may, without authorization from the copyright owner, observe, study or test the operation of the program, to determine the principles and ideas underlying any of its elements at the time of loading the program in the memory or displaying, converting, transmitting or storing it, which operations the authorized user is entitled to carry out.

(3) The provisions of Article 10(e)of this Law do not apply to computer programs.

Art. 78. The authorization of the copyright owner shall not be mandatory where the reproduction of the code or translation of its form is indispensable to procure information

required for the interoperability of a computer program with other computer programs, provided that the following conditions have been fulfilled:

(a) the acts of translation and reproduction are carried out by the person holding the right to use a copy of the program, or by a person who is doing so in the name of that person, having been duly authorized for the purpose;

(b) the information necessary for interoperability is not readily and rapidly accessible to the persons referred to in paragraph (a) of this Article;

(c) the acts referred to in paragraph (a)of this Article are limited to the parts of the program required for the interoperability.

Art. 79. Information obtained by virtue of Article 78:

(a) may not be used for purposes other than the achievement of interoperability of the independently-created computer program;

(b) may not be communicated to others, except where such communication proves necessary for the interoperability of the independently-created computer program;

(c) may not be used for the development, production or marketing of a computer program that is basically similar in expression or for any other act that might damage the author's rights.

Art. 80. The provisions of Articles 78and 79 shall not apply if they are liable to prejudice either the owner of the copyright or the normal exploitation of the computer program.

Art. 81. The provisions of Chapter VI of this Title shall not apply to computer programs.

Chapter X
Works of Three-Dimensional Art, Architecture, and Photography

Art. 82. A person, whether natural person or legal entity, who organizes art exhibitions shall be answerable for the integrity of the works exhibited, and shall therefore take the necessary measures for the elimination of any risk.

Art. 83.—(1) The contract for the reproduction of an artistic work shall contain information identifying the work, such as a summary description, a sketch, a drawing, a photograph and references to the author's signature.

(2) Reproductions shall not be put on sale without the copyright owner's approval of the copy that shall have been submitted to him for examination.

(3) The author's name or pseudonym or some other sign identifying the work shall appear on all copies thereof.

(4) The originals and other elements that have served the maker of the reproductions shall be returned to their possessor, whatever his title, unless otherwise agreed.

(5) Instruments specially created for the reproduction of the work must be destroyed or rendered unusable if the owner of the copyright in the work does not acquire them, unless otherwise agreed.

Art. 84.—(1) Architectural and town-planning studies and projects displayed close to the site of the architectural work, and also the corresponding construction work carried out, must bear a written notice in a visible place giving the name of the author, unless otherwise agreed by contract.

(2) The construction of an architectural work based totally or partly on another project may take place only with the agreement of the owner of the copyright in that project.

Art. 85.—(1) Still photographs from cinematographic films shall be considered photographic works.

(2) Photographs of letters, deeds, documents of any kind, technical drawings and other similar material do not qualify for legal protection by copyright.

Art. 86.—(1) The right of the author of a photographic work to exploit his own work shall not prejudice the rights of the author of the artistic work reproduced in the photographic work.

(2) The economic rights in a photographic work created under an individual employment contract or commission contract shall be presumed to belong to the employer or commissioning party for a period of three years, unless otherwise provided in the contract.

(3) Disposal of the negative of a photographic work shall have the effect of transfer of the economic rights of the owner of the copyright in the said work, unless otherwise provided in the contract.

Art. 87.—(1) A photograph of a person, when made to order, may be published or reproduced by the person photographed or his successors without the author's consent, unless otherwise agreed.

(2) If the name of the author appears on the original photograph, it must also be shown on the reproductions.

Chapter XI
Protection of the Portrait, of the Addressee of Correspondence and of the Secrecy of Information Sources

Art. 88.—(1) The distribution of a work containing a portrait shall require the authorization of the person represented in that portrait. Its author, owner or possessor shall not have the right to reproduce it or communicate it to the public without the consent of the person represented, or that of his successors, for a period of 20 years after the death of the said person.

(2) Unless otherwise agreed, authorization shall not be required if the person represented in the portrait is a professional model or has received remuneration for the sitting.

(3) Authorization shall not be necessary for the distribution of a work containing the portrait:

(a) of a widely-known person, if the portrait was made on the occasion of that person's public activities;

(b) of a person where the representation of that person constitutes only a detail of a work representing an assembly, a landscape or a public function.

Art. 89. The distribution of correspondence addressed to a person shall require the authorization of the addressee and, after the addressee's death, for a period of 20 years, that of his successors, unless he has expressed a different wish.

Art. 90. The person represented in a portrait and the addressee of correspondence may exercise the right provided for in Article 10(d) of this Law in relation to the distribution of the work containing the portrait or correspondence, as the case may be.

Art. 91.—(1) At the author's request, the publisher or producer shall be obliged to preserve the secrecy of the information sources used in the works and to abstain from publishing documents referring thereto.

(2) The lifting of the secrecy shall be permitted with the consent of the person who has requested it or on the basis of a final and irrevocable judgment.

TITLE II
NEIGHBORING RIGHTS

Chapter I
Common Provisions

Art. 92.—(1) Neighboring rights shall not prejudice the rights of authors. No provision of this Title shall be interpreted in such a way as to limit the exercise of copyright.

(2) Economic rights recognized in accordance with this Chapter may be transferred, either in their entirety or in part, according to the provisions of ordinary legislation. Economic rights may be the subject of exclusive or non-exclusive assignments.

Art. 93. For the purposes of this Law, fixing is the embodiment of codes, sounds, images or sounds and images, or digital representations thereof, on any physical, even electronic medium that allows them to be perceived, reproduced or communicated in any way.

Art. 94. Recognition and protection as owners of neighboring rights shall be accorded to performers in respect of their own performances, to producers of sound recordings in respect of their own recordings and to radio and television broadcasting organizations in respect of their own broadcasts.

Chapter II
The Rights of Performers

Art. 95. For the purposes of this Law, performers are actors, singers, musicians, dancers and other persons who present, sing, dance, recite, declaim, act, interpret, direct, conduct or in any other way execute a literary or artistic work, a performance of any kind, including performances of folklore, variety or circus performances or puppet shows.

Art. 96. The performer shall have the following moral rights:

(a) the right to demand recognition of the authorship of his own performance;

(b) the right to demand that his name or pseudonym be mentioned or communicated at each performance and on each use of a recording thereof;

(c) the right to demand respect for the quality of his rendering and to oppose any distortion, falsification or other substantial modification of his performance or any infringement of his rights that might seriously prejudice his honor or reputation;

(d) the right to object to any use of his performance where such use might do him serious personal harm.

Art. 97.—(1) The rights provided for in Article 96may not be the subject of renunciation or alienation.

(2) After the performer's death, the exercise of the rights provided for in Article 96 shall be transferred by inheritance, in accordance with civil legislation, for an unlimited period of time.

Art. 98. The performer shall have the exclusive economic right to authorize:

(a) the fixing of his performance;

(b) the reproduction of the fixed performance;

(c) the distribution of the fixed performance by sale, rental, lending or any other mode of transfer for a consideration or free of charge;

(d) the presentation in a public place or communication to the public of the performance, either unfixed or fixed on a physical medium;

(e) the adaptation of the fixed performance;

(f) the broadcasting or transmission by television or radio of his rendering, either unfixed or fixed on a physical medium, or the retransmission thereof by wireless means, by wire, by cable, by satellite or by any other similar procedure.

Art. 99.—(1) Performers who all participate in the same performance, such as members of a musical group, choir, orchestra or ballet, or theater company shall designate a representative from among themselves for the grant of the authorization provided for in Article 98.

(2) The representative shall be designated in writing, with the agreement of a majority of the group's members.

(3) Directors, conductors and soloists shall be excepted from the provisions of the foregoing paragraphs.

Art. 100. In the case of a performance given by the performer under an individual contract of employment, the economic right provided for in Article 98 may be transferred to the employer on condition that the transfer is expressly mentioned in the individual contract of employment.

Art. 101.—(1) Unless otherwise agreed, the performer who has taken part in the making of an audiovisual work or sound recording shall be presumed to have assigned to the producer thereof the exclusive right to exploit his performance by fixing, reproduction, communication to the public and distribution. For communication to the public the performer shall be entitled to 50 per cent of the producer's takings.

(2) The provisions of Articles 43, 44, and 68(1) shall also apply to performers.

Art. 102. The duration of the economic rights of performers shall be 50 years from the first of January of the year following that in which the first fixing, or, failing that, the first communication to the public took place.

Chapter III
The Rights of Producers of Sound Recordings

Art. 103.—(1) A sound recording or phonogram within the meaning of this Law shall be taken to mean any fixing exclusively of the sounds of the performance of a work or of other sounds, or of digital representations of such sounds, whatever the method and the physical medium used for the fixing. An audiovisual fixation or the sound part thereof, or a digital representation of such a fixation, shall not be considered a sound recording.

(2) The producer of a sound recording shall be the person, whether natural person or legal entity, who assumes the responsibility for the organization and financing of the first fixing of the sounds, whether or not it constitutes a work in terms of this Law.

Art 104. In the case of the reproduction and distribution of sound recordings, the producer shall be entitled to specify on the physical medium in which they are embodied and on covers, boxes and other physical packaging material, in addition to the particulars of the author and performer, the titles of the works, the date of manufacture and the name and logotype of the producer.

Art. 105.—(1) The producer of sound recordings shall have the exclusive economic right to authorize:

(a) the reproduction of his own sound recordings;

(b) the distribution of his own sound recordings by sale, rental, lending or any other mode of transfer for a consideration or free of charge;

(c) the broadcasting or transmission by television or radio of his own sound recordings, or the retransmission thereof by wireless means, by wire, by cable, by satellite or by any other similar procedure or means of communication to the public;

(d) the presentation in a public place of his own sound recordings;

(e) the adaptation of his own sound recordings;

(f) the importation into the territory of Romania of legally-made copies of his own sound recordings.

(2) The producer of sound recordings shall also have the exclusive economic right to prevent the importation of copies of his own sound recordings made without his authorization.

(3) The rights provided for in paragraphs (1) and (2) shall be transferred by exclusive or non-exclusive assignment according to the conditions specified for copyright in Articles 42 and 43.

(4) The provisions of paragraph (1)(f) shall not apply when the importation is done by a natural person without commercial intent.

Art. 106.—(1) The duration of the economic rights of producers of sound recordings shall be 50 years from the first of January of the year following that in which the first fixing takes place.

(2) Where the sound recording is disclosed to the public during that period, the term of the economic rights shall expire after 50 years have expired following the date on which it was disclosed to the public.

Chapter IV
Provisions Common to Authors, Performers and Producers of Sound and Audiovisual Recordings

Art. 107.—(1) The authors of sound or audiovisual works recorded on any kind of physical medium shall have the right, together with the publishers and producers of the said works and the performers whose performances are fixed on such physical media, to remuneration for the private copying done under the conditions set forth in Article 34(2) of this Law.

(2) The remuneration provided for in paragraph (1) shall be paid by the manufacturers or importers of physical media susceptible of use for the reproduction of the works, and by the manufacturers or importers of devices serving for such reproduction. The remuneration shall be payable at the time of distribution of the said media and devices on the national territory, and shall amount to five per cent of the selling price of the media and devices made within the country, or five per cent of the price entered in the customs documents for imported media and devices, as the case may be.

(3) The remuneration provided for in paragraph (1) shall be distributed as follows, through the relevant collective administration organizations, among the authors, performers, publishers and producers involved:

(a) in the case of sound works recorded on physical media, 40 per cent of the remuneration shall be payable, in negotiable shares, to the authors and publishers of the recorded works, and the remaining 60 per cent shall be payable, in equal shares, to the performers on the one hand and to the producers of sound recordings on the other;

(b) in the case of audiovisual works recorded on physical media, the remuneration shall be divided in equal shares between the authors, performers and producers.

(4) The collection of the sums payable under paragraph (1) shall be done by one collective administration organization, designated by the Romanian Copyright Office, for each field. The procedure for the distribution of those sums among the beneficiaries shall be determined by a protocol negotiated between them.

(5) The collective administration organizations collecting the sums payable under paragraph (1) shall have the right to request information from manufacturers and importers on the status of sales or imports, as the case may be, of physical media and devices and to check the accuracy thereof.

(6) The right provided for in paragraph (1) may not be the subject of renunciation on the part of the authors and performers.

Art. 108. The remuneration provided for in Article 107shall not be paid where unrecorded video or audio materials manufactured within the country or imported are sold wholesale to the producers of audiovisual and sound recordings or to television and radio broadcasting organizations for their own broadcasts.

Art. 109.—(1) The authors and publishers of works fixed on a graphic or analogous physical medium shall be entitled to compensatory remuneration for private copying carried out under Article 34of this Law.

(2) The remuneration provided for in paragraph (1) shall be paid by the manufacturers or importers of devices permitting the reproduction of works fixed on a graphic or analogous physical medium. The remuneration shall be paid at the time of distribution of the devices on the national territory, and shall amount to five per cent of the selling price of the devices made within the country, or five per cent of the price entered in the customs documents for imported devices, as the case may be.

(3) The remuneration provided for in paragraph (1) shall be distributed equally through the relevant collective administration organizations, between the author and the publisher.

(4) The collection of the sums payable under paragraph (1) shall be done by one collective administration organization, designated by the Romanian Copyright Office, for each field. The procedure for the distribution of those sums among the beneficiaries shall be determined by a protocol negotiated between them.

Art. 110. The provisions of Articles 107 and 109 shall not apply to the importation of reproduction devices and materials carried out by a person without commercial intent.

Art. 111. The distribution of the copies of an artistic performance or sound recording following the first such distribution shall not require authorization by the owner of the neighboring rights, except in the case of rental or importation.

Art. 112. The provisions of Articles 33, 34, and 38 shall apply by analogy to performers and to producers of sound recordings.

Chapter V
Television and Radio Broadcasting Organizations

SECTION 1
THE RIGHTS OF TELEVISION AND RADIO BROADCASTING ORGANIZATIONS

Art. 113.—(1) Television and radio broadcasting organizations shall have the exclusive economic right to authorize the following, subject to the authorized person's obligation to mention the name of the organization:

(a) the fixing of their own radio or television programs;

(b) the reproduction of their own radio or television programs fixed on any kind of physical medium;

(c) the distribution of their own radio or television programs fixed on any kind of physical medium by sale, rental, lending, or any other mode of transfer for a consideration or free of charge;

(d) the retransmission of their own radio or television programs by wireless means, by wire, by cable, by satellite or by any other similar procedure, and also by any other mode of communication to the public;

(e) the communication of their own radio or television programs in a place accessible to the public against payment of an admission charge;

(f) the adaptation of their own radio or television programs fixed on any kind of physical medium;

(g) the importation into the territory of Romania of legally made copies of their own radio or television programs fixed on any kind of physical medium.

(2) Radio and television bodies shall likewise have the exclusive economic right to prevent the importation of copies, made without their authorization, of their own radio or television programs fixed on any type of physical medium.

(3) The rights provided for in paragraphs (1) and (2) shall be transferred by exclusive or non-exclusive assignment according to the conditions specified for copyright in Articles 41 and 43.

(4) The provisions of paragraph (1)(f) shall not apply when the importation is done by a natural person without commercial intent.

Art. 114. The duration of the rights provided for in this Chapter shall be 50 years from the first of January of the year following that in which the first broadcast or transmission of the television or radio broadcasting organization's program takes place.

Art. 115. The distribution of a radio or television program fixed on any kind of physical medium following the first such distribution shall not require authorization by the owner of the neighboring rights, except in the case of rental.

Art. 116. The provisions of Articles 33 34, and 38 shall apply by analogy to television and radio broadcasting organizations.

SECTION 2
COMMUNICATION TO THE PUBLIC BY SATELLITE

Art. 117.—(1) Television and radio broadcasting organizations whose activity consists in the communication to the public of programs by satellite shall be bound to conduct their activity in a manner that respects the copyright and the neighboring rights protected by this Law.

(2) For the purposes of this Law, communication to the public by satellite means the production under the direction and responsibility of a television or radio broadcasting organization located on the territory of Romania, of program-carrying signals intended to be received by the public in an uninterrupted chain of communication leading up to the satellite and back down to Earth.

Art. 118.—(1) Where the program-carrying signals are sent in encoded form, their incorporation in the chain of communication shall be considered communication to the public if the device for decoding the broadcast is made available to the public by the organization concerned or with its consent.

(2) Responsibility for communication to the public where the program-carrying signals are transmitted by an organization located outside the territory of Romania shall be determined as follows:

(a) if the signals are transferred to the satellite through an uplink station located on the territory of Romania, responsibility shall lie with the person operating the station;

(b) if no use is made of an uplink station, but the communication to the public has been authorized by an organization with its headquarters in Romania, responsibility shall lie with the organization that authorized the communication.

Art. 119.—(1) Owners of copyright or neighboring rights may transfer their rights in communication to the public by satellite only by means of a contract concluded individually or through a collective administration organization.

(2) The standard contract concluded between a collective administration organization and a television or radio broadcasting organization for the transmission of a type of work belonging to a given field shall also be binding on owners of rights who are not represented by the collective administration organization, if the communication to the public by satellite takes place at the same time as the terrestrial dissemination carried out by the same distributor. The unrepresented owner of rights may at any time put an end to the extended effects of the standard contract by means of an individual contract.

(3) The provisions of paragraph (2) shall not apply to audiovisual works.

SECTION 3
RETRANSMISSION BY CABLE

Art. 120. For the purposes of this Law, communication to the public by cable retransmission means the simultaneous, unchanged and complete retransmission by cable

or by a short-wave relay system, for reception by the public, of an initial broadcast of television or radio programs conveyed to the public by wire or wireless means.

Art. 121.—(1) Owners of copyright or neighboring rights may exercise their right to authorize or prohibit retransmission by cable by virtue of contracts concluded through a collective administration organization.

(2) If certain owners of rights have not entrusted the management of their rights to a collective administration organization, the entity managing rights in the same class shall be regarded *de jure* as managing their rights also.

If in the field concerned there are two or more collective administration organizations, the owner of rights may choose among them. Such owners of rights may claim those rights within a period of three years following the date of the retransmission by cable.

(3) The exercise of the cable retransmission right by a television or radio broadcasting organization for its own programs shall take place by virtue of contracts concluded with cable distributors.

(4) Retransmission by cable without the consent of the owner of rights and without payment of a remuneration shall be permitted only in the case of programs owned by public television and radio broadcasting organizations of national scope and also those of television and radio broadcasting organizations that are retransmitted by cable compulsorily in accordance with regulations in force.

Art. 122. Where the parties fail to agree on the conclusion of a contract for retransmission by cable, they may appeal to arbitrators appointed according to the provisions of the Code of Civil Procedure.

TITLE III
MANAGEMENT AND PROTECTION OF COPYRIGHT AND NEIGHBORING RIGHTS

Chapter I
Management of the Economic Aspects of Copyright and of Neighboring Rights

SECTION I
GENERAL PROVISIONS

Art. 123.—(1) Owners of copyright and neighboring rights may exercise their rights recognized by this Law in person or through collective administration organizations acting at their request.

(2) Copyright and neighboring rights which, by their nature, correspond to a manner of exploiting works or performances that makes individual authorization impossible shall in particular be susceptible of collective administration. The rights

provided for in Article 13(g), (h), (j), and (l) and in Articles 17, 18, 102, 107, and 109 this Law, among others, fall into that category.

SECTION 2
COLLECTIVE COPYRIGHT AND NEIGHBORING RIGHTS ADMINISTRATION ORGANIZATIONS

Art. 124. For the purposes of this Law, collective copyright and neighboring rights administration organizations, called collective administration organizations elsewhere in the Law, are legal entities constituted by free association and having as the main object of their activity the collection and distribution of the royalties whose administration has been entrusted to them by the owners thereof.

Art. 125.—(1) The collective administration organizations provided for in this Chapter shall be subject to the provisions governing non-profit associations and may acquire legal personality under the law on the advice of the Romanian Copyright Office.

(2) The organizations shall be created directly by the owners of copyright or neighboring rights: authors, performers, producers, television and radio broadcasting organizations and other owners of copyright or neighboring rights, whether natural persons or legal entities. They shall act within the limits of the mandate entrusted to them and on the basis of statutes adopted according to the procedure provided for in the law.

(3) Collective administration organizations may be created separately for the administration of different categories of rights corresponding to different fields of creation, and also for the administration of rights belonging to different categories of owners.

Art. 126.—(1) The advice provided for in Article 125(1) shall be given to collective administration organizations with headquarters in Romania which:

(a) have to be constituted or to function under legal provisions applicable on the entry into force of this Law;

(b) provide proof of the existence of a repertoire of works of their members, and of the human and material resources necessary for the exploitation thereof;

(c) have adopted statutes that fulfill the conditions provided for in this Law;

(d) have the legal and economic means of managing rights throughout the territory of the country;

(e) are accessible, as expressly provided in their own statutes, to any owner of copyright or neighboring rights in the field for which they have been set up.

(2) The decision of the Romanian Copyright Office on the giving of advice in favor of a collective administration organization exercising its rights shall be published in the Official Gazette of Romania at the expense of the collective administration organization.

Art. 127. The statutes of the collective administration organization shall include provisions on the following:

(a) its name, its field and object of activity, with a mention of the rights that it administers on the basis of the repertoire of works constituted to that end;

(b) the terms on which the administration of rights shall be carried out for the owners thereof, on the basis of the equal-treatment principle;

(c) the rights and obligations of its members in relations with the organization;

(d) its management and representative bodies, their powers and duties and their operation;

(e) its initial assets and planned economic resources;

(f) the rules governing the distribution of royalties collected;

(g) the means of determining the commission payable to the collective administration organization to cover the necessary operating expenses;

(h) the means available to members of verifying its economic and financial administration;

(i) any other provisions that are mandatory under the legislation in force.

Art. 128. Where there is more than one collective administration organization in a given field of creation, the organization competent under this Law shall be the one that the owner of rights has joined. Where the owner of rights has not joined any collective administration organization, the organization in the relevant field that has been designated by the owner of the rights shall be competent. Such owners of rights may claim those rights within a period of three years following the exploitation thereof.

Art. 129.—(1) The mandate of collective administration of the economic attributes of copyright and neighboring rights shall be given either directly by the owners of the copyright or neighboring rights in written contracts or in appropriate contracts concluded with foreign organizations administering similar rights.

(2) The provisions of Title I (Chapter VII Section 1) shall not apply to the mandate contracts provided for in paragraph (1).

(3) Any owner of copyright or neighboring rights may by contract entrust the exercise of his rights to a collective administration organization, which has to agree to exercise those rights on a collective basis, provided that the administration of the category of rights in question is within the scope of its statutory activity.

(4) Collective administration organizations may not be empowered to effect the exploitation of works and neighboring rights for which they have received a collective administration mandate.

SECTION 3
FUNCTIONS OF COLLECTIVE ADMINISTRATION ORGANIZATIONS

Art. 130.—(1) Collective administration organizations shall be under the following obligations:

(a) to grant to users, by contract and in exchange for remuneration, non-exclusive authority to use the works or performances of the owners of the rights, in the form of non-exclusive licenses;

(b) to compile tables for their field of activity, that include the royalties payable and also the procedures that have to be negotiated with users for the payment of those royalties in the case of works having a manner of exploitation that precludes individual authorization by the owners of the rights;

(c) to conclude, in the name of the owner of rights or on the basis of the mandate entrusted to them by similar foreign organizations, general contracts with the organizers of shows, television and radio broadcasting organizations and cable retransmission entities with a view to the authorization of the performance and distribution of present or future works or performances included in their repertoires;

(d) to represent the interests of their members in relation to the exploitation of their works outside the territory of Romania by the conclusion of bilateral contracts with similar foreign organizations and also by affiliation to non-governmental international organizations in the field concerned;

(e) to collect the sums paid by users and to distribute them among the owners of rights according to the provisions of their statutes;

(f) to inform the owners of copyright or neighboring rights, at their request, on the manner of use of their rights and to send them the annual financial report and audit report;

(g) to give specialized assistance to the owners of rights and represent them in connection with legal proceedings relating to the object of their activity;

(h) to engage in any other activity in accordance with the mandate received from the owners of copyright or neighboring rights within the limits of the object of their activity;

(i) to request the users to communicate any information and submit any documents that are indispensable to determine the amount of the remuneration and fees that they collect.

(2) The compilation of the tables and procedures provided for in paragraph (1)(b) shall be done on the basis of negotiations with representatives of the associations of users' employers.

Art. 131.—(1) The tables and procedures provided for in Article 130(1)(b) shall be negotiated in a commission composed of:

(a) one representative of each of the principal collective administration organizations operating in a given field;

(b) one representative of each of the principal associations of users' employers in a given field.

(2) The collective administration organizations and also the associations of users' employers represented on the commission shall be appointed for each field by the Romanian Copyright Office.

(3) The negotiated tables and procedures shall be submitted for advice to the Romanian Copyright Office, which shall forward them to the Government for approval within 30 days.

(4) Where, as a result of the negotiations, the commission has failed to compile the tables and procedures within 90 days following the date of its constitution, the matter shall be referred to the Romanian Copyright Office for mediation. For the mediation, the Romanian Copyright Office shall convene the negotiating parties, consider their views, and rule on the final form of the tables and procedures, which it shall forward to the Government for approval within 30 days following the date of receipt.

(5) Tables and procedures approved by Government decree shall be mandatory also for users who did not participate in the negotiations.

(6) Any of the parties to the negotiations may apply to the Romanian Copyright Office for new advice on the tables and procedures with a view to the modification thereof, but not before three years have elapsed since they were approved at the current remuneration percentage rate.

(7) Remuneration calculated as a lump sum may be modified periodically by the collective administration organizations in conjunction with the indexation of national income levels. The new remuneration shall come into effect in the month following that in which it was communicated to users.

Art. 132. Collective administration of copyright and neighboring rights can be provided only for works and performances that have already been disclosed to the public.

Art. 133.—(1) Collective administration organizations engaged in negotiations under Article 130(1)(b) on behalf of the members whose rights they administer may not claim from users more than ten per cent in all for copyright or three per cent for neighboring rights, of the gross takings or, failing that, of the expenses arising from the use.

(2) The sums payable by users shall be collected by one collective administration organization for each field, appointed by the Romanian Copyright Office on the criterion of representativeness. The distribution of those sums among the entitled collective administration organizations shall take place according to a protocol negotiated between them.

Art. 134.—(1) The exercise of the collective administration entrusted to the organization under the management contract may not in any way restrict the economic rights of the owners.

(2) Collective administration shall be exercised according to the following rules:

(a) decisions regarding the methods and rules of collection of the remuneration and other sums from users and regarding the distribution thereof among the owners of rights, and also decisions on other important aspects of collective administration, shall be taken by members in accordance with the statutes;

(b) the owners whose rights are managed by a collective administration organization shall periodically be given accurate, complete and detailed information on all activities of the collective administration organization;

(c) in the absence of express authorization from the owners of rights under administration, no remuneration received by a collective administration organization may be used for other purposes such as cultural, or social purposes, or to finance promotional activities other than those serving to cover the actual cost of the administration of the rights in question, with the balance remaining after deduction of that cost being distributed to the said owners;

(d) sums collected by a collective administration organization shall, after deduction of the real cost of the collective administration, be taxed in accordance with the applicable legal provisions. After other deductions authorized by the owners of rights as provided in subparagraph (c), the sums in question shall be distributed among the owners in proportion to the actual use of their works.

Art. 135.—(1) Collective administration organizations shall be obliged to provide the Romanian Copyright Office with information concerning the exercise of their own duties and powers and to place at its disposal, in the first quarter of each year, the annual report approved by the statutory general assembly and the report of the audit commission on the auditing of their economic and financial administration.

(2) Where a collective administration organization no longer fulfills the conditions specified in Article 124, or manifestly and repeatedly violates the obligations laid down in Article 130 and in paragraph (1) of this Article, the Romanian Copyright Office may allow the collective administration organization a time limit within which to abide by the law. In the event of failure to comply with those obligations, the Romanian Copyright Office may apply to the court for the dissolution of the collective administration organization concerned.

Art. 136. The existence of collective administration organizations shall not prevent the owners of copyright and neighboring rights from having recourse to specialized agents, who may be either natural persons or legal entities, to represent them in individual negotiations concerning the rights recognized by this law.

Chapter II
Romanian Copyright Office

Art. 137.—(1) On the date of the entry into force of this Law the Romanian Agency for Copyright Protection, a specialized body under the authority of the Ministry of Culture, shall change its name to the Romanian Copyright Office, and shall operate as a specialized body under the authority of the Government, with sole competence on the territory of Romania in connection with the currency, the observance and the monitoring of the application of copyright and neighboring rights legislation, its operating and investment costs being wholly financed from the State budget. The Ministry of Finance shall make the appropriate amendments to the State budget.

(2) The Government shall appoint the director general of the Romanian Copyright Office and also 20 arbitrators from among candidates with legal training designated by collective administration organizations, associations of creators, performers and

producers, bodies grouping entities whose professional activity relates to the use of works, and also television and radio broadcasting organizations.

(3) The arbitrators shall not be employees of the Romanian Copyright Office, but shall be entitled to remuneration for their participation in mediation concerning the tables and procedures for the collection of the royalties administered by collective administration organizations as provided in Article 130(1)(b) of this Law.

(4)Regulations approved by the Government shall lay down standards regarding the staff structure, organization and operation of the Romanian Copyright Office and also the operation of the arbitration body.

Art. 138. The duties and powers of the Romanian Copyright Office shall be the following:

(a) to organize and administer the repertoire of works and authors received from the collective copyright and neighboring rights administration organizations;

(b) to give advice on the constitution of collective administration organizations as legal entities under the law, and to monitor the application of the legislation by the organizations on whose constitution it has given its advice;

(c) to give advice, as provided in the law, on the compilation and negotiation of tables and procedures by collective administration organizations and associations of users' employers;

(d) to exercise, at the request and expense of the owners of protected rights, observation and monitoring functions in relation to activities that might give rise to the infringement of copyright and neighboring rights legislation;

(e) to intervene, by mediation, in negotiations between collective administration organizations and users as provided in Article 131(4);

(f) to draw up reports on infringement of the law, as provided in the Code of Criminal Procedure, and to inform the competent bodies in the event of offenses for which the criminal proceedings are initiated *ex officio*;

(g) to devise teaching programs and practical and theoretical training courses in the field of copyright and neighboring rights;

(h) to maintain relations with similar specialized bodies and with international organizations operating in the field concerned of which the State of Romania is a member.

Chapter III
Procedures and Sanctions

Art. 139.—(1) Violation of rights recognized and guaranteed by this Law shall make the offender guilty of a civil or criminal offense or of a misdemeanor, as the case may be, according to the law. The procedural provisions shall be those specified in this Law, completed with those of ordinary legislation.

(2) The owners of rights that are violated may apply to the courts or other competent bodies, as the case may be, for recognition of their rights and of the violation thereof, and may seek redress for the prejudice in accordance with legal provisions.

(3) Where rights recognized and protected by this Law have been violated, the owners thereof may apply to the court or any other competent bodies, in accordance with the law, for the immediate ordering of measures to prevent the occurrence of imminent damage or to secure redress therefor, as the case may be.

(4) The owners of rights that have been violated may likewise apply to the court for the ordering of any of the following measures:

(a) the surrender, in order to cover the prejudice suffered, of the proceeds from the unlawful act or, if the prejudice cannot be redressed in that way, of the goods resulting from the unlawful act, with a view to their being turned to account up to the full amount of the prejudice caused;

(b) the destruction of the equipment and means belonging to the offender that were solely or mainly intended for the perpetration of the unlawful act;

(c) the removal from commercial channels by confiscation and destruction, of the unlawfully made copies;

(d) the publication in the press of the court's decision at the expense of the offender.

(5) The provisions of paragraph (4)(c) shall not apply to architectural constructions unless destruction of the building is dictated by the circumstances of the case.

Art. 140. It shall be an offense punishable with imprisonment for one month to two years, or a fine of 200,000 to 3 million Lei, except where it constitutes a more serious offense, for a person to perform any of the following acts without the authorization or consent, as the case may be, of the owner of the rights recognized by this Law:

(a) to disclose a work to the public;

(b) to perform on stage, recite or execute a work or otherwise present a work directly in public;

(c) to allow the public access to computer databases that contain or constitute protected works;

(d) to translate, publish in a collection, adapt or transform a work to produce a derived work;

(e) to fix on a performer's performance on a physical medium;

(f) to broadcast or transmit by television or radio a performance, either unfixed or fixed on a physical medium, or to retransmit it by wire or wireless means, by cable, by satellite or by any other similar procedure, or by any other means of communication to the public;

(g) to present the sound recordings of a producer in a public place;

(h) to broadcast or transmit by television or radio the sound recordings of a producer, or to retransmit them by wire or wireless means, by cable, by

satellite or by any other similar procedure, or by any other means of communication to the public;

(i) to fix television or radio broadcasts or to retransmit them by wire or wireless means, by cable, by satellite or by any other similar procedure, or by any other means of communication to the public;

(j) to communicate television or radio programs in a place accessible to the public with payment of an admission charge.

Art. 141. It shall be an offense and punishable with imprisonment for three months to five years, or a fine of 500,000 to 10 million Lei, except where the act constitutes a more serious offense, for a person improperly to assume the authorship of a work or to disclose a work to the public under a name other than the one decided upon by the author.

Art. 142. It shall be an offense punishable with imprisonment for three months to three years, or a fine of 700,000 to 7 million Lei, except where the act constitutes a more serious offense, for a person to do the following without the consent of the owner of the rights recognized by this Law:

(a) reproduce a work in its entirety or in part;

(b) distribute a work;

(c) import copies of a work into the territory of Romania for commercial purposes;

(d) exhibit a work of three-dimensional or applied art, a photograph or a work of architecture;

(e) project a cinematographic or other audiovisual work in public;

(f) broadcast a work by any means of wireless propagation of signals, sounds or images, including by satellite;

(g) transmit a work to the public by wire, cable, optic fiber or any other similar procedure;

(h) retransmit a work by any means for the wireless propagation of signals, sounds or images, including by satellite, or retransmit a work by wire, cable, optic fiber, or any other similar procedure;

(i) broadcast or transmit a work transmitted by television or radio in a place accessible to the public;

(j) reproduce the performance a performer;

(k) distribute the performance of a performer;

(l) reproduce the sound recordings of a producer;

(m) distribute the sound recordings of a producer, including by rental;

(n) import the sound recordings of a producer into Romania for commercial purposes;

(o) reproduce radio or television programs fixed on any kind of physical medium;

(p) distribute radio or television programs fixed on any kind of physical medium, including by rental;

(r) import radio or television programs fixed on any kind of physical medium into Romania for commercial purposes.

Art. 143. It shall be an offense punishable with imprisonment for three months to two years, or a fine of 500,000 to 5 million Lei, except where it constitutes a more serious offense, for a person to do the following:

(a) place at the disposal of the public by sale or any other method of transfer, either for a consideration or free of charge, technical means designed for the unauthorized erasure or neutralization of the technical devices that protect a computer program;

(b) refuse to declare to the competent bodies the origin of copies of a work or of the physical media on which a performance or a television or radio program is recorded, which are protected under this Law and are in the person's possession with a view to distribution.

Art. 144. Criminal proceedings shall be set in motion, in the case of the offenses provided for in Articles 140, 141, and 142(a), (c), (j), (l), (n), and (o), on a preliminary complaint filed by the injured party within the meaning of this Law.

Art. 145. Acts performed by the Romanian Copyright Office in the exercise of its supervisory powers under Article 138(d) and (f) shall be governed by the provisions of Article 214 of the Code of Criminal Procedure.

TITLE IV
APPLICATION OF THE LAW. TRANSITIONAL AND FINAL PROVISIONS

Art. 146. The provisions of this Law shall apply in any of the following situations:

A. to works:

(a) where they have not yet been disclosed to the public, and their authors are Romanian citizens;

(b) where they have not yet been disclosed to the public and their authors are natural persons or legal entities with their domicile or headquarters in Romania;

(c) where they have been disclosed to the public for the first time in Romania, or in another country and simultaneously, or not later than 30 days thereafter, in Romania;

(d) where they are works of architecture built on the territory of Romania;

B. to performances of performers:

(a) where they take place on the territory of Romania;

(b) where they are fixed in sound recordings, protected under this Law;

(c) where they are not fixed in sound recordings but are transmitted in television or radio broadcasts protected under this Law;

C. to sound recordings:

(a) where the producers thereof are natural persons or legal entities with their domicile or headquarters in Romania;

(b) where they were first fixed on a physical medium in Romania;

(c) where they were first disclosed to the public in Romania, or in another country and simultaneously, or not later than 30 days thereafter, in Romania;

D. to radio and television programs:

(a) where they are broadcast by television and radio broadcasting organizations with headquarters in Romania;

(b) where they are transmitted by transmitting organizations with headquarters in Romania.

Art. 147. Foreigner owners of copyright or neighboring rights shall enjoy the protection provided by international conventions, treaties and agreements to which Romania is party, failing which they shall enjoy treatment equal to that accorded to Romanian citizens, on condition that the latter, in turn, are accorded national treatment in the countries concerned.

Art. 148.—(1) The existence and content of a work may be proved by any kind of evidence, including its presence in the repertoire of a collective administration organization.

(2) The authors and other owners of rights or owners of authors' exclusive rights referred to in this Law shall have the right to enter on the originals or authorized copies of the works a notice of reserved exploitation rights consisting of a circled letter C, accompanied by their name and the place and year of first publication.

(3) Producers of sound recordings, performers and other owners of the exclusive rights of producers or performers referred to in this Law shall have the right to enter on the originals or authorized copies of the sound or audiovisual recordings or on the box or sleeve containing them a notice of reserved rights consisting of a circled letter P, accompanied by their name and the place and date of first publication.

(4) In the absence of proof to the contrary, it shall be presumed that the exclusive rights signaled by the circled letters C and P exist and belong to the persons who have used them.

(5) The provisions of paragraphs (2), (3), and (4) shall not determine the existence of the rights recognized and guaranteed by this Law.

(6) The authors of works and the owners of rights may, at the same time as their works are entered in the repertoire of the collective administration organization also have

the name under which they write, perform or create registered, for the sole purpose of making it known to the public.

Art. 149.—(1) Legal acts executed under the former legislation shall produce all their effects according to that legislation, with the exception of clauses that provide for the transfer of the exploitation rights in any future works that the author might yet create.

(2) Works created prior to the entry into force of this Law shall also enjoy protection under it, including computer programs, sound recordings, cinematographic or audiovisual works and the programs of television and radio broadcasting organizations, under the conditions specified in paragraph (1).

(3) The duration of the exploitation rights in works created by authors deceased before the entry into force of this Law and for which the term of protection has expired shall be extended up to the limit of the term provided for in this Law. Such extension shall come into effect only on the entry into force of this Law.

Art. 150.—(1) The equipment, sketches, mock-ups or models, manuscripts, and any other objects that serve directly for the making of a work that gives rise to copyright may not be seized in attachment proceedings.

(2) The sums payable to authors for the use of their works shall benefit from the same protection as wages, and may be attached only on the same conditions. The sums shall be subject to taxation according to the applicable fiscal legislation.

(3) Civil applications and actions arising from relations governed by this Law that are entered by owners of copyright or neighboring rights or by natural persons or legal entities representing them, and also the relevant appeals, shall be exempt from stamp tax.

Art. 151. All litigation relating to copyright and neighboring rights shall be under the jurisdiction of the courts according to this Law and the provisions of ordinary legislation.

Art. 152. Collective administration organizations active on the date of entry into force of this Law shall be compulsorily subject to the provisions of Article 125 within six months following the entry into force of this Law.

Art. 153. The provisions of this Law shall be completed by the provisions of ordinary legislation.

Art. 154.—(1) This Law shall come into force within 90 days following the date of its publication in the Official Gazette of Romania.

(2) Statutory Decree No. 321 of June 21, 1956, on Copyright, as subsequently amended, and any other provisions to the contrary, shall be repealed on the same date.

(3) Until such time as the tables and procedures negotiated under the provisions of Article 131 of this Law have been approved, the tariffs laid down by the statutory instruments in force shall apply.