SERBIA AND MONTENEGRO

THE LAW ON COPYRIGHT AND RELATED RIGHTS

I. SUBJECT-MATTER OF THE LAW

Article 1

This Law shall regulate the rights of the authors of literary, scientific and artistic works (hereinafter: the copyright), right of performers, right of the first publisher of a free work, rights of producers of phonograms, videograms, broadcasts and databases, as rights related to the copyright (hereinafter: the related rights), the way of exercising the copyright and related rights and the judicial protection of such rights.

II. COPYRIGHT

1. WORK OF AUTHORSHIP

Article 2

(1) A work of authorship is an author's original intellectual creation, expressed in a certain form, regardless of its artistic, scientific or some other value, its purpose, size, contents and way of manifestation, as well as the permissibility of public communication of its contents.

(2) The following shall be deemed works of authorship in particular:
1) Written works (e.g. books, brochures, articles, translations, computer programs in any form of their expression, including their preparatory design material and other);
2) Spoken works (lectures, speeches, orations, etc.);
3) Dramatic, dramatic-musical, choreographic and pantomime works, as well as works originating from folklore;
4) Works of music, with or without words;
5) Films (cinema and television);
6) Fine art works (paintings, drawings, sketches, graphics, sculptures, etc.);
7) Works of architecture, applied art and industrial design;
8) Cartographic works (geographic and topographic maps);
9) Drawings, sketches, dummies and photographs;
10) The direction of a theatre play.

Article 3

(1) An unfinished work of authorship, parts of a work of authorship, as well as the title of a work of authorship, shall be deemed a work of authorship, subject to meeting the requirements set out in Article 2, Paragraph 1, of this Law.

(2) Notwithstanding the provision of Paragraph 1 of this Article, the protection of a work of authorship shall also apply to the title of that work.

Article 4

(1) Modifications of works of authorship shall be deemed works of authorship, subject to the requirements referred to in Article 2, Paragraph 1, of this Law.

(2) A work of modification shall be a work in which the characteristic elements of the modified (original) work (musical remixes, arrangements, adaptations and other) are recognisable.

(3) The protection of a copyright referred to in Paragraph 1 of this Article shall in no way limit the rights of the author of the original work.

Article 5

(1) A collection of the works of authorship, which in view of the selection and arrangement of its integral parts, meets the requirements referred to in Article 2, Paragraph 1, of this Law (an encyclopaedia, collection of works, anthology, selected works, music collection, photograph collection, graphic map, exhibition and the like), shall also be deemed a work of authorship.

(2) A collection of folk literary and artistic creations, as well as a collection of documents, court decisions and similar materials, which in view of their selection and arrangement, meets the requirements referred to in Article 2, Paragraph 1, of this Law, shall also be deemed a work of authorship.

(3) A collection shall also be understood to mean a database, regardless of whether it is in a mechanically or otherwise legible form, which in view of the selection and arrangement of its integral parts, meets the requirements referred to in Article 2, Paragraph 1, of this Law.

(4) The protection of a collection shall in no way restrict the rights of authors of the works constituting an integral part of the collection.

Article 6

(1) The protection of copyright shall not apply to general ideas, principles and instructions included in a work of authorship.

(2) The following shall not be deemed works of authorship:

1) Laws, decrees and other regulations;
2) Official materials of state bodies and bodies performing public functions;
3) Official translations of regulations and official materials of state bodies and bodies performing public functions;
4) Submissions and other documents presented in the administrative or court proceedings.

Article 7

(1) A work of authorship shall be deemed disclosed once it is communicated to the public for the first time by its author or a person duly authorised by him/her, in any way and anywhere in the world.

(2) A work of authorship shall be deemed published once the copies of it are released by its author or a person duly authorised by him/her, in a number, which in view of the kind and nature of the work, can satisfy the needs of the public.

(3) A work of fine arts shall also be deemed published when the original or at least a copy of that work is made accessible to the public on a permanent basis by its author or a person duly authorised by him/her.

2. COMMENCEMENT OF RIGHTS

Article 8

Any author shall enjoy moral and pecuniary rights with regard to his/her work of authorship from the moment of its creation.

3. HOLDER OF COPYRIGHT

Article 9

(1) An author is a natural person who has created a work of authorship (hereinafter: the work).

(2) An author shall be understood to mean a person whose name, pseudonym or mark is stated on copies of the work or is referred to on the occasion of publication of the work, until proven to the contrary. Exceptionally, legal or natural person whose title and/or name is in the usual way displayed on the film work shall be considered as the producer of that work, until proven to the contrary.

(3) The author of the work shall be the holder of copyright.

(4) Besides the author, the holder of copyright may also be a person who is not an author who has acquired the copyright in accordance with this Law.

Article 10

(1) A co-author is a natural person who has created a work on the basis of creative work with another person.

(2) Co-authors shall be joint holders of the copyright on a work of authorship, unless otherwise provided by this Law or a contract governing their mutual relations.

(3) The consent of all co-authors shall be necessary for the exercise of a copyright and its assignment. A co-author may not withhold his/her consent contrary to the principle of good faith and fair dealing, or do anything that is harmful or could be harmful to the interests of other co-authors.

(4) Each co-author shall be authorised to file an action for the protection of right with respect to the co-authored work, in which case he/she may file claims only in his/her own name and for his/her own behalf.

(5) Co-authors shall share the economic benefit from exploiting a co-authored work in proportion to the actual contribution made by each of them to the creation of such work, unless otherwise agreed on among them.

Article 11

(1) The scriptwriter, director and chief cameraman shall be regarded as co-authors of a film.

(2) If music makes up an essential component of a film (musical film) and it has been composed for that film, then also the composer shall be regarded as a co-author of that film.

(3) In a cartoon and/or animated film, or in a film where drawings or animation are its essential elements, the main film-animator shall also be deemed to be the co-author of the film.

Article 12

(1) If two or more authors combine their works for the sake of joint exploitation, each author shall reserve his/her right on his/her work.

(2) The relations between the authors of combined works shall be determined by contract.

Article 13

(1) The copyright on a work of authorship, the author of which is unknown (an anonymous work or a work under pseudonym), shall be held by the following:

1) If published, by its publisher;
2) If disclosed, but not published, by the person who has disclosed it.

(2) If proved that persons referred to in Paragraph 1 of this Article have not acquired the permission to publish and/or disclose the work from its author or his/her successor, Paragraph 1 of this Article shall not apply.

(3) Once the identity of the author of a work referred to in Paragraph 1 of this Article is established, the rights of the publisher and/or the person who has disclosed it shall be terminated

4. CONTENT OF THE COPYRIGHT

4.1. Author's Moral Rights

4.1.1. Right of Authorship

Article 14

Any author shall have the exclusive right to be recognised as the author of his work.

4.1.2 Right to be Named

Article 15

(1) Any author shall have the exclusive right to his/her name, pseudonym or mark being put on each copy of his work or be quoted at each public communication of that work, unless that is technically impossible or unfeasible in regard to the concrete form of the public communication of the work.
(2) In certain cases, the author may explicitly wave the rights referred to in Paragraph 1 of this Article.

4.1.3. Right of Disclosure

Article 16

(1) Any author shall have the exclusive right to disclose his/her work and set the way in which it is to be disclosed.

(2) Pending the disclosure of a work, only its author shall have the exclusive right to give information in public about the contents of his/her work or to describe it.

4.1.4. Right of Protection of the Work's Integrity

Article 17

Any author shall have the exclusive right to protect the integrity of his/her work, particularly by the following actions:

1) Opposing the alterations to his/her work by unauthorised persons;
2) Opposing the communication of his/her work to the public in an altered or incomplete form, taking into account the concrete technical form of communication of the work and good business practices.
3) Giving permission for his work to be modified.

4.1.5. Right to Oppose Unbecoming Exploitation of the Work

Article 18

Any author shall have the exclusive right to oppose the exploitation of his/her work in a manner that is posing or could pose a threat to his honour or reputation.

4.2. Author's Pecuniary Rights

Article 19

(1) Any author shall have the right to commercial exploitation of his/her work, as well as of a work resulting from the modification of his/her work.

(2) Any author shall be entitled to remuneration for the exploitation of his work by another person, unless otherwise provided by this Law or a contract.

4.2.1. Right to Affix or Reproduce

Article 20

(1) The author shall have the exclusive right to authorize or prohibit fixation or reproduction of his work in any tangible or intangible, permanent or temporary, direct or indirect manner.

(2) Besides the acts referred to in Paragraph 1 of this Article, the reproduction of the works of architecture shall also be understood to mean the construction of buildings in accordance with drawings and/or designs.

(3) Reproduction of the works shall exist regardless of the number of their copies, technique by which they are multiplied or the durability of the copy.

(4) If the work of authorship is a computer program, reproduction shall also be understood to mean the storage of the program, wholly or partially, in the computer memory and running the program in the computer.

4.2.2. The Right to Place in Circulation Copies of the Work.

Article 21

(1) The author shall have the exclusive right to prohibit anybody from placing copies of his work on the market or to permit him/her to do so.

(2) Placing copies of a work on the market shall also include the following:

1) Offering copies of the work for the purposes of placing it in circulation;
2) Storing copies of the work for the purposes of placing it in circulation;
3) Importing copies of the work.

(3) The right of an author to place copies of the work on the market shall not affect any owner of a copy of the work who has legally acquired in Serbia and Montenegro that copy from the author or persons duly authorised by the latter (exhausted right). The owner of the copy of a work, who has legally obtained it from its author, may carry on placing it on the market without any restrictions.

4.2.3. The Right to Rent Copies of the Work

Article 22

(1) The author shall have the exclusive right to give permission or prohibit renting copies of his/her work . For the purposes of this Law, “renting” means making copies of the work available for use to other persons for a limited period of time and for direct or indirect pecuniary benefit.

(2) If an author licences his/her right referred to in Paragraph 1 of this Article to a producer of phonograms and/or videograms, he/she shall retain the right to obtain an equitable remuneration for the rental of the work (work recorded on a video cassette, audio cassette, compact disc and the like).

(3) The author may not waive the right to remuneration referred to in Paragraph 2 of this Article.

Article 23

The author shall not enjoy the right referred to in Article 22, Paragraph 1, of this Law, if any of the following is involved:

1) A built work of architecture;
2) A work of applied art materialised in the form of an industrial or artisan product;
3) A work that came into being or was reproduced for the purpose of being rented as the exclusive form of the exploited work agreed upon between the author and owner of a copy of the work.

4.2.4. The Right to Lend Computer Program

Article 24

The author of the computer program shall have the exclusive right to give permission or prohibit lending of copies of his work. For the purposes of this Law, “lending” means making copies of the work available for use to someone by the institutions accessible to the public, without direct or indirect pecuniary benefit.

4.2. 5. The Right to Perform

Article 25

(1) The author shall have the exclusive right to permit or prohibit performance of his/her work.

(2) For the purposes of Paragraph 1 of this Article, performance shall be understood to mean public communication of non-stage works (speech, music) live to the audience.

4.2.6. The Right to Present

Article 26

(1) The author shall have the exclusive right to give permission or prohibit presentation of his/her work.

(2) For the purposes of Paragraph 1 of this Article, presentation shall be understood to mean public communication of stage works (dramatic, dramatic-musical, choreographic, pantomimic) live to the audience.

4.2.7. The Right to Transmit Performance or Presentation

Article 27

(1) The author shall have the exclusive right to give permission or prohibit transmitting of the performance or presentation of his/her work.

(2) For the purposes of Paragraph 1 of this Article, transmission shall be understood to mean the simultaneous public communication of a work that is being performed or presented to the audience present outside the premises on which the work is being performed or presented live, with the means of technical devices, such as a loudspeaker or a screen and a loudspeaker.

4.2.8. The Right to Broadcast

Article 28

(1) The author shall have the exclusive right to give permission or prohibit broadcasting of his/her work.

(2) For the purposes of Paragraph 1 of this Article, broadcasting shall be understood to mean public communication of a work by wire or wireless transmission of electromagnetic, electric or other signals at long distance (radio broadcasting and cable broadcasting).

(3) The wireless and wire broadcasting are two different ways of exploiting a work and they make up the subject-matter of two different copyright authorisations, except in the following cases:

1) If the re-broadcasting of a work by wire is a technically essential condition for the reception of a broadcast;
2) If the re-broadcasting by wire of a work that is broadcast wireless supplies less than a hundred receivers with signal on a non-commercial basis.

(4) For the purposes of Paragraph 2 of this Article, special broadcasting operation shall also be deemed to exist when signals intended for public reception are transmitted in an uninterrupted communication chain to a satellite and back to the ground, under the control of a broadcaster (hereinafter: the broadcasting enterprise), which shall be responsible therefore.

(5) If the signals are coded, transmission via satellite shall be deemed to exist on condition that the signal decoding devices are accessible to the public through a

broadcasting enterprise referred to in Paragraph 4 of this Article or through a third party duly authorised by the broadcasting enterprise.

(6) In case of wire re-broadcasting the program of another broadcasting enterprise, the author's right from Paragraph 1 of this Article for the author's work contained in that program is realized only through the organization for collective realization of copyright and related rights.

4.2.9 The Right to Public Communication, including the Interactive Communication of the Work to the Public

Article 29

The author shall have the exclusive right to give permission or prohibit communication of his/ her work to the public by wire or wireless means including the making available in such a way that member of the public may individually access the work from a place and at a time he/she chooses.

4.2.10 The Right to Adapt, Arrange or Alter the Work in Some Other Manner

Article 30

The author shall have the exclusive right to prohibit or permit adaptation, arrangement or other alteration of his/her work.

4.2.11 The Right to Communicate a Broadcasted Work to the Public

Article 31

The author shall have the exclusive right to give permission or prohibit communication of his/her work that is being broadcasted, simultaneously to audience at public places, such as means of public transport, restaurants, waiting rooms and the like, with the means of such devices as radio receivers or television sets.

4.2.12 The Right to Communicate a Work from a Sound or Picture Carrier to the Public

Article 32

The author shall have the exclusive right to give permission or prohibit communication to the public of his/her work recorded on a sound carrier or picture carrier (a record, compact disc, audio cassette, video cassette, film tape, optic disc, slide) with the means of technical devices for the reproduction of sound and/or picture.

4.3. Author's Rights in Relation to the Owner of a Work of Authorship

4.3.1. Right of Access to a Copy of the Work

Article 33

(1) Any author shall have the right to request an owner of a copy of his work to allow him/her access to that copy, if so is necessary for the reproduction of that work and if that is not a threat to justified interests of the owner or the person keeping the work in his/her possession.

(2) The owner of a work or the person keeping it in his/her possession referred to in Paragraph 1 of this Article, shall not have to hand over a copy of the work to the author.

4.3.2. Droit de Suite

Article 34

(1) If an owner of an original copy of a work of fine arts or an original copy of manuscript of a literary, scientific or musical work sells that copy, and/or manuscript to other person, the author of the work shall have the right to be notified of that fact and to claim remuneration amounting to 3% of the sale price.

(2) The author may not waive or dispose of the right referred to in Paragraph 1 of this Article.

(3) The right referred to in Paragraph 1 of this Article shall be inheritable.

(4) The right referred to in Paragraph 1 of this Article shall not exist if related to works from the area of architecture and cinematography works, as well as if related to works whose original copy, and/or manuscript is a subject-matter of the sale transaction between natural persons acting in their private capacity.

Article 35

(1) The seller and a gallery keeper or an organizer of a public auction for the original work, and/or manuscript shall be jointly and severally liable for the obligations referred to in Article 34 of this Law.

(2) The notification obligation is due on the 15th day after the sale is completed, and consists of the following information: sale price, name and the address of the seller and the buyer. The obligation to pay remuneration is due on the 30th day after the sale is completed, and the amount of the remuneration is to be calculated on the basis of net selling price.

(3) If there is a reasonable doubt related to correctness and completeness of the notification referred to in Paragraph 2 of this Article, the author shall have the right to request the gallery keeper or organizer of a public auction to present the appropriate documentation to him. If determined that notification contains

incorrect or incomplete data, the costs incurred in connection with presentation of documents shall be borne by the art gallery keeper or organiser of the public auction.

4.3.3. Right to Prohibit the Exhibition of the Original Copy of a Work of Fine Arts

Article 36

(1) The owner of the original version of a painting, sculpture and photograph shall have the right to exhibit such item, regardless of whether it has been disclosed, unless expressly prohibited by the author in writing, a the time original version was disposed of.

(2) No author may prohibit the displaying of the original version of a work belonging to a museum, art gallery or a similar public institution.

4.3.4. Author's Priority Right of Modification of a Work of Architecture

Article 37

(1) If the owner of a building, which is a materialised work of architecture, intends to make certain alterations on that building, he/she shall first offer the author to make such alteration, if he/she is accessible.

(2) The author's moral rights shall be observed if alterations in a building are not made in accordance with the modification of the work made by the author.

4.4. Authors' Right to Special Remuneration

Article 38

(1) The authors of works, which in view of their nature, can be expected to be reproduced for personal non-commercial purposes on sound, picture and text carriers (works of literature, music, cinematographic works and similar), shall have the right to a remuneration on the basis of import and/or sale of technical devices and sound, picture and text carriers, which are suitable for such reproduction.

(2) The joint and several debtors for the remuneration referred to in Paragraph 1 of this Article shall be the importer and seller of the technical device or sound, picture and text carrier.

(3) In the case of works of authorship that are reproduced by photocopying or by a similar method, besides the right to the remuneration referred to in Paragraph 1 of this Article, the author shall also be entitled to remuneration from the legal or natural person who provides photocopying services .

(4) Persons referred to in Paragraph 2 of this Article need not pay remuneration for technical devices or sound, picture and text carriers, if they are intended to be exported.

(5) Authors may exercise their right to the remuneration referred to in Paragraphs 1 and 3 of this Article only through an organisation for the collective exercise of copyright and related rights.

Article 39

(1) The author shall have the right to remuneration from the person who lends copies of his/ her work, except computer programs, when such person is registered for such an activity.

(2) Provision of paragraph 1 of this Article shall not apply when lending:

1) library material in public libraries,
2) buildings;
3) works of applied arts and/or industrial design.

(3) The right referred to in Paragraph 1 of this Article may be exercised only through an organisation for collective exercise of copyright and related rights

5. LIMITATIONS ON COPYRIGHT

5.1. Common Provision

Article 40

(1) In the cases in which a work of authorship is exploited pursuant to the provisions of this Law dealing with limitations on copyright, the name of that work's author and the source from which the work was taken (publisher of the work, year and place of publication, periodical, newspaper, television or radio station where the work or a part of it was originally published or directly taken from, and the like), shall be quoted.

(2) In any specific case, the scope of limitation of exclusive rights may not conflict with a normal exploitation of the work nor may unreasonably prejudice the legitimate interests of the author.

5.2. Suspension of Exclusive Rights and Right to Remuneration

Article 41

A work of authorship may be reproduced and communicated to the public without the author's permission and without paying remuneration for the purpose of conducting an official procedure before a court or other state bodies.

Article 42

(1) In the scope of informing the public on current events with the means of the press, radio and television, it shall be permissible to make copies of a work, as well as to communicate the work in all other forms to the public without its author's permission and without paying remuneration, on the following conditions:

1) That the work has been disclosed;
2) That the work is appearing as an integral part of a current event about which the public is being informed;
3) That the reproduction of copies of the work and other forms of communicating it to the public are done only to the extent corresponding to the purpose and mode of informing on the current event.

(2) If the subject-matter of informing is a speech, oration or some other work of the same kind, the work involved may be reproduced and communicated to the public as a whole, without the author's permission and without paying remuneration

Article 43

Short excerpts from the disclosed works may be reproduced without the author's permission and without paying remuneration if used for non-commercial purposes in the field of education, examination or scientific research.

Article 44

Public libraries, educational institutions, museums and archives shall have the right to reproduce works without author's permission and without paying remuneration, exclusively for their archival and non-commercial purposes.

Article 45

(1) Without prejudice to the provisions of Article 180, Paragraph 1, Items 4 and 5 of this Law, any natural person shall have the right to reproduce for personal non-commercial purposes a disclosed work without the author's permission and without paying remuneration.

(2) The copies referred to in Paragraph 1 of this Article shall not be placed on the market or be used for any other form of public communication of that work.

(3) The provisions of Paragraph 1 of this Article shall not apply to the following:

1) Recording of the performance, presentation or showing the work;
2) Three-dimensional realisation of drawings for works of fine arts;
3) Constructed works of architecture;
4) Construction of a new building after an existing building, which is a work of authorship;
5) Computer programs.

(4) The author shall have the right of remuneration in accordance with the provisions of Article 38 of this Law for the use of its work in a manner prescribed by this Article.

Article 46

(1) If a work of authorship is a computer program, the person who has legitimately obtained a copy of that computer program for his/her own usual use, may do the following without its author's permission and without paying any remuneration:

1) Store the program in the computer memory and run the program;
2) Eliminate errors in the program, as well as make any other necessary changes in it, in accordance with its purpose, unless otherwise provided by contract;
3) Make a one back-up copy of the program on a lasting tangible carrier;
4) Decompile the program exclusively for the purpose of obtaining the data necessary for making that program inter-operational with some other independently developed program or some hardware, on condition that such data were not accessible in some other way and that decompilation is limited only to those parts of the program which are necessary to achieve interoperability.

(2) The data obtained in the way referred to in Paragraph 1, Item 4, of this Article may not be communicated to others or be used for other purposes, particularly for the purpose of developing or selling another computer program that would infringe on the copyright on the original one.

(3) Act referred to in Paragraph 1, Sub-paragraph 4 of this Article may be directly conducted by a person who has legally obtained a copy of a computer program, or by some other qualified person acting under his/her instructions.

Article 47

Any person shall have the right of temporary reproduction of the work of authorship without the author's permission and without paying any remuneration, under the following conditions:

1) Reproduction is transient or incidental,
2) Reproduction is an integral and essential part of a technological process,
3) Purpose of reproduction is to enable a transmission of data in a network between two or more persons through an intermediary, or to enable a lawful use of a work of authorship, and
4) Reproduction does not have independent economic significance.

Article 48

Short excerpts of a work of authorship may be reproduced or be communicated to the public (right of quotation), without the author's permission and without paying remuneration, on the following conditions:

1) The work has been disclosed;
2) The mentioned parts are integrated into another work without alterations, for the sake of illustration, confirmation or reference, with a clear indication that a reference is involved;

3) The name of the quoted author, the title of the quoted work and when and where the quoted work was disclosed or published are noted in a suitable place.

Article 49

(1) A broadcasting enterprise possessing the permission to broadcast a work may record it using its own facilities on a sound carrier or picture carrier or on a sound and picture carrier, for its own broadcasting purposes, without the author's permission and without paying any remuneration.

(2) The recording of the work referred to in Paragraph 1 of this Article shall be deleted within three months from the date on which such work was broadcasted at the latest.

(3) The recording referred to in Paragraph 1 of this Article may be retained in official public archives, if it has a documentary value.

(4) Any work recorded pursuant to Paragraph 1 of this Article may not be rebroadcast without author's permission.

Article 50

Any work that is permanently displayed in a street, a square or some other open public places may be reproduced in two dimensions and its copies thus made may be put on the market, as well as communicated to the public in some other way, without the author's permission and without paying remuneration.

Article 51

Displayed works may be reproduced in a suitable way and their copies thus made may be marketed, for the purpose of making public exhibition catalogues or conducting public sales, without the authors' permission and without paying any remuneration.

Article 52

(1) In shops, at trade fairs and other places where the operation of the sound and picture recording reproducing and transmitting devices is demonstrated, works may be reproduced on a sound and picture carrier and communicated to public therefrom without their authors' permission and without paying remuneration, though only to the extent necessary to demonstrate the operation of such devices.

(2) Any recording made pursuant to the provision of Paragraph 1 of this Article shall be deleted without any delay.

5.3. Statutory License

Article 53

(1) State bodies, educational institutions and public libraries shall have the right to reproduce works without the author's permission, with the obligation to pay the remuneration, for educational or scientific research purposes, by means of

photocopying or using any other kind of photographic technique or similar technique with the similar results, on a paper or any other similar medium.

(2) Provision of Paragraph 1 of this Article shall not apply to sheet music.

Article 54

(1) The articles published in mass media may be reproduced, marketed or in other way communicated to the public by other mass media, without the author's permission, with the obligation to pay the remuneration, provided that such articles relate to current economic, political or religious issues and that such activity is not expressly forbidden by the author concerned.

(2) There shall be no obligation to pay remuneration if only small parts of commentaries or articles are used in the way referred to in Paragraph 1 of this Article in the form of a summary of several different commentaries or articles.

Article 55

Three-dimensional reproduction of works permanently displayed in the streets, squares and other open public places may be made and such copies may be marketed, without their authors' permission, with the obligation to pay remuneration, except in the following cases:

1) If the copy of a sculpture is obtained as a casting from the original mould, from which also the copy permanently displayed at an open public place or from a mould made by casting the sculpture;
2) If a building is built after an existing building;
3) If the product is formed after a work of applied arts.

6. TRANSFER OF THE COPYRIGHT

6.1. Transfer by Inheritance

Article 56

(1) The author's heirs may exercise all powers with respect to the author's moral rights, except for the right to publish an undisclosed work, if the author has prohibited it, and the right to modify the work.

(2) Besides his/her heirs, associations of authors, as well as institutions in the fields of science and arts, may also protect an author's rights relating to authorship, integrity of the work and prohibition of unbecoming exploitation of the work.

Article 57

The pecuniary rights of any author shall be inheritable.

6.2. Transfer by Contract

6.2.1. Author's Moral Rights

Article 58

The moral rights of any author are not transferable by a contract.

6.2.2. Author's Pecuniary Rights

Article 59

The author or his/her successor in rights may licence to another person some or all of the pecuniary rights on his/her work.

Article 60

(1) The licensing of pecuniary rights may be either exclusive or non-exclusive.

(2) In the case of exclusive licensing of pecuniary rights, only the licensee shall be authorised to exploit the work of authorship in the way stipulated by contract, as well as to license such rights to somebody else, with the author's or his/her successor's special permission. The right a licensee licences to others shall be a non-exclusive right, unless otherwise provided by contract.

(3) In the case of non-exclusive licensing of pecuniary rights, the licensee shall not be authorised neither to prohibit somebody else from exercising the copyright nor to a license his/her right to somebody else.

(4) Where the contract does not state whether exclusive or non-exclusive licensing is implicated, concerned licensing of pecuniary rights shall be deemed to be non-exclusive.

Article 61

(1) The licensing of pecuniary rights may be limited in terms of subject-matter, territory and time.

(2) In the case of limitation relating to subject-matter, the licensee shall be authorised to perform one or several specified operations towards exploiting the work of authorship.

(3) In the case of territorial limitation, the licensee shall be authorised to exploit the work of authorship within a specified territory, which is smaller than the one in which the right of authorship exists.

(4) In the case of temporal limitation, the licensee shall be authorised to exploit the work of authorship within a specified period, which is shorter than the period of validity of the copyright with respect to such work.

Article 62

(1) Any person who has acquired pecuniary rights by a licence from the author or his/her heir may cede such right wholly to another person, subject to the permission of the author or his/her heir.

(2) The permission of the author or his/her heir shall not be needed in the event of transfer of the enterprise holding the pecuniary right.

Article 63

The transfer of title on an original of a work of authorship shall not imply the acquisition of copyright on that work.

Article 64

(1) The licensing of pecuniary right on a work which has not been created yet shall be permissible on condition that the kind of the future work and ways of exploiting it are determined.

(2) Any licensing of pecuniary rights on all future works of an author, as well as on still unknown forms of exploiting a work, shall be null and void.

6.2.3. Copyright Contract

Article 65

(1) Copyright may be licensed or ceded in whole by the copyright contract.

(2) The provisions of the law that regulates contracts and torts shall apply to copyright contracts, unless otherwise provided by this Law.

(3) Copyright contracts shall be made in writing, unless otherwise provided by this Law.

Article 66

(1) In the event of doubt as to the contents and scope of the rights being licensed or ceded by the copyright contract, it shall be deemed that less rights have been licensed or assigned.

(2) The licence for the publication of a work, for the recording a work on a sound or a picture carrier, and the licence for broadcasting shall be contracted expressly, unless otherwise provided by this Law.

(3) The licensing or cession of a right to exploitation of a work shall not be understood to also mean the licensing or cession of the right to remuneration in the case of exploitation of a work of authorship on the basis of a statutory licence.

(4) The licensing and/or cession of a right to exploit a work shall also mean the licence for making such changes in the work that are technically inevitable or usual for such exploitation of the work.

Article 67

A copyright contract shall include the following: names of contracting parties, title and/or identification of the work of authorship, rights that the subject-matter of licensing or cession, amount of remuneration if any, and the method and terms for its payment, as well as limitations related to content, territory and time, if any.

Article 68

(1) If the profit made by exploiting a work of authorship is evidently disproportionate to the contractual remuneration, the author or his/her heir shall have the right to request the contract to be modified for the purpose of eliminating such disproportion.

(2) If the author's remuneration is not agreed upon and if the profit made by the use of the work of an author exceeds the costs of its use, allowing therewith the payment of author's remuneration, the author or his/her heir shall have the right to request the contract to be modified by including such remuneration in the contract.

(3) The right referred to in paragraphs 1 and 2 of this Article shall become unenforceable two years after the existence of such disproportion and /or profit made by the use of work of an author became known, but not later than six years from the end of the year in which the disproportion had arisen, and/or profit has been made.

(4) The author and/or his/her heir may not waive in advance the right referred to in Paragraphs 1 and 2 of this Article.

(5) In order to exercise rights referred to in Paragraphs 1 and 2 of this Article, the user of the work of authorship shall have a duty to present credible information on economic effects of the use of a work of authorship to the author, and/or his/her heir within period not exceeding a month as of the day of the request.

Article 69

(1) The author or his/her heir may withhold the permission granted or revoke a licensed pecuniary right, if the acquirer of permission or licensee is not exercising the acquired right or if the right is exercised to a lesser extent than agreed, whereby jeopardizing the interests of the author or his/her heir.

(2) The author or his heir may not withhold the permission granted or revoke a licensed pecuniary right if the acquirer is not exercising the right or is doing so inadequately for reasons for which the author or his/her heir is responsible.

(3) The author or his/her heir may not exercise the right referred to in Paragraph 1 of this Article prior to the expiration of two years as of the date of the copyright contract, or the handover of the copy of the work to the acquirer of the right, if such handover had taken place after the conclusion of contract.

(4) If a contribution (article, illustration and the like) intended to be disclosed and/or published in a newspaper or periodical is involved, the period referred to in Paragraph 3 shall be six months.

(5) Prior to withholding the permission or revoking the right, the author or his/her heir shall notify the acquirer of the permission or right accordingly, providing a reasonable period of time within which the acquirer is to commence exercising the acquired right or doing so to the agreed extent.

(6) The author or his/her heir may not waive in advance the right referred to in Paragraph 1 of this Article.

Article 70

(1) The author may withhold the permission granted or revoke the licensed pecuniary right, if he/she is of the opinion that the exploitation of the work could be detrimental to his/her creative or personal reputation, for reasons arisen subsequent to the conclusion of the copyright contract, for which the acquirer of the right is not responsible.

(2) The author shall indemnify the acquirer of the right for the real damage sustained.

(3) The statement of withholding the permission or right referred to in Paragraph 1 of this Article shall be effective as of the date on which the author deposits a security for the indemnity referred to in Paragraph 2 of this Article.

(4) At the author's request, the acquirer of the right shall notify the author of the amount of costs he/she has had in connection with preparations for the exploitation of the work until the date of the notice of withholding the permission or right, within three months from receipt of the statement of withholding the permission or right referred to in Paragraph 1 of this Article. Should the acquirer fail to perform his/her duty referred to in this paragraph, the statement of withholding the permission or right shall be effective as of the expiration of the term referred to in this Paragraph.

(5) The author may not waive in advance his/her right referred to in Paragraph 1 of this Article.

6.2.3.1. Publishing Contract

Article 71

(1) A publishing contract shall be a contract under which an author or any other copyright holder licences or cedes to a publisher the right to reproduce a work of authorship by printing and market thus reproduced copies, and where the publisher undertakes to reproduce that work and market, as well as to remunerate, if agreed upon, the author or any other copyright holder.

(2) If the work of authorship referred to in Paragraph 1 of this Article has not been disclosed, the publisher shall be permitted under the publishing contract, to disclose such work.

(3) The author or any other copyright holder may licence or cede to the publisher, under a publishing contract, the right to have the work translated, as well as the authority to reproduce and market the translated work.

Article 72

A publishing contract, the subject-matter of which is the publication of articles, drawings and other authors' contributions in newspapers and periodicals, need not be concluded in writing.

Article 73

(1) The licensing of rights by the publishing contract shall be exclusive, unless otherwise agreed upon.

(2) The provision of Paragraph 1 of this Article shall not apply to the publishing of articles, drawings and other authors' contributions in newspapers and periodicals.

Article 74

(1) Besides the particulars referred to in Article 71 of this Law, a publishing contract shall also include the following:

1) Term within which the author or other copyright holder shall hand over to the publisher a proper manuscript or other original of the work, so as to make it possible for the publisher to reproduce the work. That term shall be a year from the date of contract, unless otherwise agreed upon;
2) Term within which the publisher shall start marketing copies of the work. Such term shall be a year from receipt of a proper manuscript or other original of the work, unless otherwise agreed upon;
3) Number of editions the publisher is authorised to publish. The publisher shall have the right to publish only one edition of the work, unless otherwise agreed upon;
4) Number of copies of one edition. If the number of copies has not been stipulated, it shall be 500, unless business practices and other circumstances evidently call for it to be different;
5) Term within which the publisher has to start marketing copies of the next edition upon depletion of the previous one, if so has been stipulated. Such term shall be a year from the date on which the author had made a request to that effect, unless otherwise agreed upon.
6) Appearance and design of copies of the work.

(2) In the event of a breach of the contractual obligation referred to in Paragraph 1, Items 1, 2 and 5, of this Article, the other contracting party shall have the right to void the contract and to be indemnified because of the failure to execute the contract.

Article 75

The duties of the publisher shall the following:

1) To take care of the sale of copies of the work and to notify the author or any other copyright holder periodically, at his/her request;
2) To make it possible for the author or any other copyright holder, at his/her request, to proof reads in an appropriate phase of reproduction;
3) To make it possible for the author to make appropriate changes in the preparation of each subsequent edition, on condition that this does not alter the work's character and that in view of the publishing contract as a whole, it does not make up a disproportionately immense obligation for the publisher.

Article 76

A manuscript or any other original of a work of authorship that has been handed over to the publisher shall not become the latter's property, with the exception of articles, drawings and other contributions in newspapers and periodicals or unless otherwise provided by contract.

Article 77

If the sole existing copy of a work of authorship perishes because of *force majeure* after it was handed over to the publisher for the purpose of being published, the author or any other copyright holder shall have the right to a fair compensation, which would have been due to him/her had the work been published.

Article 78

(1) A publisher who has acquired the right to publish a work in the form of a book shall have priority in the acquisition of the right to reproduce the work and market the copies thereof in the form of an electronic recording, within three years from the date of the publishing contract.

(2) The priority referred to in Paragraph 1 of this Article shall expire if the publisher does not accept in writing the offer made by the author or any other copyright holder within 30 days as of the date of the offer.

Article 79

If the publisher intends to sell the unsold copies of a work as scrap paper, before such sale, it shall offer the author or any other copyright holder, if accessible, to buy-up such copies at the price payable for scrap paper.

6.2.3.2. Contract on Presentation and Contract on Performance

Article 80

Based on a contract on presentation or a contract on performance, the author or any other copyright holder licences a beneficiary to present or to perform of a work of authorship, and the beneficiary undertakes to present or perform such work within a specified period of time, in the way and under the conditions established by contract.

Article 81

If the author or any other copyright holder fails to hand over the work (manuscript, musical score and the like) to the beneficiary within the agreed term or if the beneficiary fails to present or perform it within the agreed term, the author or any other copyright holder or the beneficiary may opt to void the contract of presentation on the contract on performance and claim damages.

Article 82

The manuscript, musical score or any other original work being the subject-matter of a contract on presentation or a contract on performance shall remain author's property, unless otherwise provided by the contract.

Article 83

The beneficiary of a contract on presentation or a contract on performance shall make it possible for the author or any other copyright holder to see the presentation or performance of the work, as well as to send him/her the programme and to notify him/her periodically of the proceeds from the presentation or performance of the work.

6.2.3.3. Contract of Modification of a Work of Authorship

Article 84

Under a contract of modification of a work of authorship, the author or other holder of copyright gives some other person the permission to modify the work in order to present or perform it on the stage, make a film or for other purposes.

Article 85

(1) Unless otherwise provided by the contract on modification of a work of authorship for the purpose of making a film, the author or his/her heir shall cede under such contract the following exclusive rights:

1) To modify of the work for the purpose of making a film;
2) To reproduce and market of copies of the film thus made;
3) To show the film;
4) To broadcasting the film;
5) To subtitle and dub the film in other languages.

(2) The contract referred to in Paragraph 1 of this Article shall authorise the acquirer of the right to only one modification and one making of a film, unless otherwise provided by the contract.

(3) The provisions of Paragraphs 1 and 2 of this Article shall apply ***mutatis mutandis*** to a contract of modification of a work of authorship for the purpose of making a television work.

6.2.3.4. Contract on Film Production

Article 86

Under a contract on film production, one or several persons undertake to creatively co-operate with a film producer in the production of a film and they assign their pecuniary rights on such work to the producer.

Article 87

The scriptwriter and composer of film music, as co-authors of the cinematographic work within the meaning of Article 11 of this Law, reserve the right to exploit their work independently, separately from the film, unless otherwise provided by the contract on film production.

Article 88

A film shall be deemed completed once an agreement is reached on its final version between the co-authors and film producer.

Article 89

If a film producer intends to exploit the film in a version that differs from that referred to in Article 88 of this Law, it shall obtain the consent of the majority of the film's co-authors, including the chief director.

Article 90

(1) The provisions on remuneration, if any, in the contract on film production shall determine which amount of remuneration corresponds to which form and extent of exploitation of the film.

(2) The contractual remuneration for shooting a film shall not include remuneration for other forms of exploitation of a film.

(3) The film producer must exploit the completed film.

(4) The film producer shall notify the film co-authors, as well as the authors of any contributions to the film, of the actual revenue, and make it possible for them to inspect the business records.

Article 91

(1) The co-authors of a film shall have the right to void the contract, as well as the right to retain the contractual remuneration, if the film producer fails to complete the film within three years from the date of the film production contract, unless otherwise agreed upon.

(2) Besides the rights referred to in Paragraph 1 of this Article, the co-authors of a film shall have the right to compensation of damages, if the film producer fails to start exploiting the film within a year from completion of its first standard copy, unless some other term is provided by the contract.

Article 92

(1) Should a co-author of a film or an author of a contribution to the film refuse to co-operate in the production of the film or if due to *force majeure* is unable to continue co-operating, he/she may not object to the result of his/her creative work being used towards completing the film.

(2) The co-author of a film or the author of a contribution to a film referred to in Paragraph 1 of this Article, shall have the appropriate author's right with respect to his/her contribution to the film.

6.2.3.5. Contract of Commissioning a Work of Authorship

Article 93

(1) Under a contract of commissioning a work of authorship, the author undertakes to produce a work of authorship and to hand it over to for the commissioning party.

(2) The commissioning party shall have the right to disclose the work and market the copy of the work handed over by its author and the author shall retain other author's right, unless otherwise provided by the contract on commissioning.

(3) If a computer program was produced on the basis of a contract on commissioning a work of authorship, the commissioning party shall acquire all rights to the exploitation of that computer program, unless otherwise provided by the contract.

Article 94

The party commissioning a work of authorship shall have the right to direct and control the production of that work, though without substantially restricting the author's freedom of artistic, technical or scientific expression by doing so.

Article 95

(1) A work of authorship that was created by putting together the contributions of a large number of authors (an encyclopaedia, anthology, computer program, database and the like) shall be regarded as a collective work of authorship.

(2) The authors of contributions to a collective work of authorship shall in an exclusive way license all their pecuniary rights to the organiser of the production of such collective work, unless otherwise provided by the contract.

(3) The organiser of the production of a collective work of authorship shall have the right to disclose and exploit such work under its own name, on condition that the authors whose contributions are contained in the collective work are listed on each copy of the work.

7. WORK OF AUTHORSHIP CREATED AS AN EMPLOYEE

Article 96

(1) If an author has created a work as an employee in the performance of his/her duties, the employer shall be authorised to disclose such work and to hold exclusive pecuniary rights on its exploitation within the scope of the employer's registered business for the period of five years from completion of that work, unless otherwise provided by a general regulation or employment contract. The author shall have the right to special remuneration, depending on the proceeds of the work's exploitation.

(2) The author of a work created of an employee shall reserve all copyrights on that work, other than the rights referred to in Paragraph 1 of this Article.

(3) Upon the expiration of the term referred to in Paragraph 1 of this Article, the author shall acquire the exclusive pecuniary rights on the work.

(4) If the work of authorship is a computer program, the permanent holder of all exclusive pecuniary rights on such work shall be the employer, unless otherwise provided for in the contract.

Article 97

The criteria for setting the amount and the method of payment of the remuneration referred to in Article 96, Paragraph 1, of this Law, shall be established by a general regulation or the employment contract.

Article 98

(1) In the case of publication of the complete works, the author shall have the right to disclose his/her work that was produced during employment even before the expiration of the term referred to in Article 96, Paragraph 1, of this Law.

(2) The employer's permission shall not be needed for the disclosure of the work referred to in Paragraph 1 of this Article.

Article 99

When using a work created by an employee, the employer shall quote the author's name, pseudonym or mark.

8. DURATION OF COPYRIGHT

Article 100

(1) Pecuniary rights shall last for the life of an author and 70 years after his/her death.

(2) Moral rights of an author shall last even after the expiration of his/her pecuniary rights.

Article 101

(1) Co-authors' pecuniary rights shall expire after 70 years elapse from the death of the author that was the last to die..

(2) Pecuniary rights with respect to the work whose author is unknown (anonymous work or work under a pseudonym) shall expire after 70 years elapse from the date of its disclosure. Should its author reveal his/her identity before the expiration of the such term, the pecuniary right shall last the same as if its author's identity has been known since the date of its disclosure.

Article 102

(1) Where the term of copyright protection runs from the time of disclosure of the work and where the work was disclosed in instalments, the term of protection shall run for each such instalment separately.

(2) The term of protection of a film shall expire after 70 years elapse from the death of director, scriptwriter, dialogue author or the author of the music specifically composed for the film, whoever dies last.

Article 103

The term of copyright protection shall expire after 70 years elapses from the creation of the work if the term of its protection is not calculated from the date of death of the author or co-author and if such work has not been lawfully published during such period of time.

Article 104

All time periods used to determine expiration date of pecuniary rights of an author shall be calculated from the 1st of January of the year following the one in which the event relevant for the beginning of the period had occurred.

Article 105

(1) Upon the expiration of the authors' pecuniary rights, the associations of authors and institutions in the fields of science and arts shall take care of the protection of authors' moral rights.

(2) Besides the parties referred to in Paragraph 1 of this Article, any person shall have the right to protect the right of authorship and integrity of the works, as well as to oppose any form of unbecoming exploitation of the works of authorship.

9. PERSONS TO WHICH THE LAW APPLIES

Article 106

(1) The author's work of the foreign citizens shall be protected the Serbia and Montenegro provided that:

1) the author is a person who whose copyright is recognized on the basis of an international agreement ratified by Serbia and Montenegro, or

2) there is reciprocity between Serbia and Montenegro and the author's country.

(2) Person invoking the reciprocity referred to in paragraph 1, item 2 of this Article shall bare the burden of proof of its existence.

Article 107

Droit de suite referred to in Article 34 of this Law shall recognized to a foreign citizen exclusively on the basis of reciprocity.

Article 108

Author's moral rights of any foreign citizen shall be recognized regardless of whether the requirements referred to in Article 106, paragraph 1, of this Law have been met.

III. RELATED RIGHTS

1. PERFORMERS' RIGHTS

1.1. Establishment of the Right

Article 109

A performer shall enjoy moral rights and pecuniary rights in accordance with this Law for his/her performance of a work of authorship.

1.2. Performance

Article 110

(1) For the purposes of this Law, the performance shall be understood to mean an intellectual commodity that originates from personal engagement of a performer during audio, visual, or audio-visual communication of the author's work.

(2) The work being performed need not be a protected work of authorship.

1.3 Performer

Article 111

(1) For the purpose of this Law, a performer shall be understood to mean an individual who engages personally in the performance of works (a musician, actor, dancer, performer of pantomimes, singer, conductor).

(2) Persons making only a technical contribution to the performance of works are not performers.

(3) Provisions of this Law regulating relations of co-authors shall apply *mutatis mutandis* to relationships of two or more performers participating in the performance of one work.

1.4. Scope of the Right

1.4.1. Performer's Moral Rights

Article 112

(1) A performer shall have the following exclusive rights:

1) To be recognised as such;
2) To have his/her name indicated on each copy of the recording, in the programme or in any other suitable way each time his/her performance is exploited, unless where that is technically impossible or impracticable due to the actual form of the public communication of the work;
3) To oppose the alterations to his/her performance or any exploitation of the performance in an altered form, should that jeopardize his/her creative or professional reputation;
4) To oppose marketing of a recording of his/her performance, if such recording has technical deficiencies that jeopardize the integrity of the performance, and thereby the performer's reputation;
5) To oppose the exploitation of his/her performance in a way that jeopardizes or could jeopardize his/her honour or reputation.

(2) If a group of performers gives a performance, the right referred to in Paragraph 1, Item 2, of this Article shall be enjoyed both by the group as a whole and the soloists.

Article 113

If several performers participate in the performance of one work, the exercise of moral rights by any of them shall not be detrimental to the interests of others.

1.4.2. Performer's Pecuniary Rights

Article 114

(1) A performer shall have the exclusive right to prohibit or permit any person to:

1) Record his/her performance and reproduce copies of the performance in any form or manner;
2) Market the recordings of his/her performance;
3) Rent the recordings of his/her performance;
4) Simultaneously transmit the performance by technical devices, such as loudspeaker and screen, to audience outside the premises on which the performance is taking palace live;
5) Broadcast his/her performance live;
6) Make the performance available to the public in an interactive manner by wire or wireless means, within the meaning of Article 29 of this Law.

(2) The performer shall not have the exclusive right on broadcasting of his/her performance that is recorded and published on a sound carrier or of a performance that was recorded on a sound and picture carrier with the performer's permission.

(3) Should a performer licence to a producer of phonograms and/or videograms his/her right referred to in Paragraph 1, Item 3, of this Article, he/she retains the right to an equitable remuneration for the rental of the recording of the performance.

(4) If the contract between the performer and a film producer does not specify otherwise, it shall be deemed that under such contract the performer has licensed the producer the right to rent copies of the performance.

Article 115

(1) A performer shall have the right to be remunerated for the following:

1) Broadcasting of his/her performance from a published recording on a sound carrier;
2) Public communication of his/her performance, which is broadcast from a recording published on a sound carrier;
3) Public communication of his/her performance from a recording published on a sound carrier.

(2) The remuneration referred to in Paragraph 1 of this Article shall be collected in the manner defined in Article 125, Paragraph 2 of this Law.

1.5. Transfer of the Right

Article 116

(1) A performer may licence or cede his/her pecuniary rights referred to in Article 114 of this Law to another person under the contract on performance.

(2) The person to whom the right referred to in Paragraph 1 of this Article has been licensed may not licence that right to a third party without the performer's consent, unless otherwise provided by the contract on performance.

Article 117

(1) If more than five performers, other the conductor and soloists, participate in the performance of a work, it shall be deemed that the performance is given by an ensemble (a choir, orchestra, drama ensemble, ballet ensemble, opera ensemble).

(2) In the exercise of the rights in accordance with this Law, an ensemble shall be represented by a person duly authorised by the majority of members of such ensemble.

(3) If besides the ensemble, also the director, soloists and players of chief roles, who are not members of that ensemble, participate in the performance of a work, the exercise of the rights in accordance with Law shall be also subject to the consent of these persons, unless otherwise agreed upon between them and the ensemble.

Article 118

(1) The contract on performance shall include the following: names of contracting parties, type and the manner of exploiting the performance, name of author and name of the work of authorship performed and the amount, mode and terms of payment of the remuneration, if agreed upon.

(2) Besides the particulars referred to in paragraph 1 of this Article, the contract on performance with respect to the broadcasting of a performance shall also include the number of broadcasts and the period in which the broadcasting shall take place, and a performance contract with respect to the recording and reproduction of copies of the recording of a performance, shall also include the number of copies that may be made.

(3) Contract on performance shall be made in writing.

Article 119

The person to whom the right referred to in Article 114 of this Law has been licensed shall forward to the performer complete data on the exploitation of the performance.

1.6. Rights of the Performer Arising From Employment

Article 120

Provisions of this Law regulating the relations between authors and their employers shall apply *mutatis mutandis* to the rights of the performers who created their performance on the basis of the employment contract.

2. THE RIGHT OF THE PHONOGRAM PRODUCER

2.1. Establishment of the Right

Article 121

The phonogram producer, with respect to its phonogram, shall have the pecuniary rights in accordance with this Law.

2.2. Phonogram

Article 122

(1) Phonogram shall be understood to mean the recording of a sound and/or a sequence of sounds on a sound carrier.

(2) A phonogram producer shall have the rights established by this Law for the first recording.

(3) The right with respect to the existing phonogram shall not be limited whatsoever, if such a phonogram is built in a videogram.

2.3. Producer of Phonogram

Article 123

The producer of a phonogram shall be understood to mean any natural or legal person, which has organized and paid for the production of the phonogram.

2.4. Scope of the Right

Article 124

A producer of a phonogram shall have the exclusive right to prohibit or permit any person to:

1) Reproduce the phonogram in any form or manner and market the copies of the phonogram thus reproduced;
2) Rent the copies of the phonogram;
3) Make the phonogram available to the public in an interactive manner by wire or wireless means, within the meaning of Article 29 of this Law.

Article 125

(1) The producer of a published phonogram shall have the right to be remunerated for the following:

1) Broadcasting of the phonogram;
2) Public communication of the phonogram;
3) Public communication of the phonogram being broadcast.

(2) The user shall pay remuneration referred to in Paragraph 1 of this Article and the performance remuneration referred to in Article 115 of this Law as an aggregate remuneration to the producer of the phonogram. If the contract between the producer of a phonogram and the performer does not specify otherwise, the producer of the phonogram must forward without delay one half of the remuneration collected to the performer whose performance is on its phonogram.

3. THE RIGHT OF THE VIDEOGRAM PRODUCER

3.1. Establishment of the Right

Article 126

A producer of a videogram, with respect to its videogram, shall have the pecuniary rights in accordance with this Law.

3.2. Videogram

Article 127

(1) Videogram shall be understood to mean the recording of a sequence of pictures with or without the accompanying sound on the picture carrier or on the picture and sound carrier.

(2) The producer of a videogram shall have the rights established by this Law only for the first recording.

3.3. Producer of a Videogram

Article 128

The producer of a videogram shall be understood to mean any natural or legal person, which has organized and paid for the production of the videogram.

3.4. Scope of the Right

Article 129

The producer of a videogram shall have the exclusive right to prohibit or permit any person to:

1) Reproduce his videogram or market the copies thus reproduced;
2) Communicate his videogram to the public from a picture carrier or picture and sound carrier (picture show);
3) Rent copies of his videogram;
4) Make the videogram available to the public in an interactive manner by wire or wireless means, within the meaning of Article 29 of this Law.

Article 130

The producer of a videogram shall have the right to oppose the exploitation of his videogram in altered form, if such exploitation can jeopardize his justified economic interests.

4. THE RIGHT OF THE BROADCAST PRODUCER

4.1. Establishment of the Right

Article 131

The producer of a broadcast shall have pecuniary rights in accordance with this Law.

4.2. Broadcast

Article 132

A broadcast shall be understood to mean an electrical, electromagnetic or some other signal converted into audio, visual or audio-visual content that is broadcast for the purpose of being communicated to the public.

4.3. Producer of Broadcast

Article 133

The producer of a broadcast shall be understood to mean any natural or legal person, which has organized and paid for the production of the broadcast.

4.4. Scope of the Right

Article 134

The producer of a broadcast shall have the exclusive right to prohibit or permit any other person to:

1) Re-broadcast his broadcast;
2) Record his broadcast on a sound or picture or a sound and picture carrier;
3) Reproduce the recording and market the copies of the recording thus reproduced;
4) Rent copies of the broadcast recording;
5) Publicly communicate the broadcast at places accessible to the public against the payment of an entrance fee;
6) Make the broadcast available to the public in an interactive manner by wire or wireless means, within the meaning of Article 29 of this Law.

5. THE RIGHT OF A DATABASE PRODUCER

5.1. Establishment of the Right

Article 135

The producer of a database shall have pecuniary rights in accordance with this Law.

5.2. Database

Article 136

(1) For the purposes of this Law the database shall mean a collection of independent data, works or other materials arranged in a systematic or methodical way, individually accessible by electronic or other means.

(2) A computer program used for its development or operation shall not be deemed to a database.

5.3. Producer of Database

Article 137

The producer of a database shall be understood to mean any natural or legal person that has created a database, by qualitative and/or quantitative substantial investment in obtaining, verification or presentation of its contents

5.4. Scope of the Right

Article 138

(1) The producer of a database shall have the exclusive right to prohibit or permit any person to:

1) Occasionally or permanently reproduce a database as a whole or its essential parts by any means, for any purpose and in any form;
2) Market or rent copies of the database or its substantial parts;
3) Connect to a computer network and any other form of public communication of the database as a whole or its essential parts.

(2) The right referred to in Paragraph 1, Item 1, of this Article shall also apply to non-essential parts of the database if they are subject to repeated or systematic use which contravenes with a normal exploitation of such database or which unreasonably injures legitimate interests of a database producer.

(3) The right referred to in Paragraph 1 of this Article shall exist irrespective of the eligibility of the concrete database or its contents for copyright or any other protection.

6. THE RIGHT OF THE FIRST PUBLISHER OF A FREE WORK

Article 139

Any person who, after the expiry of protection of the author's pecuniary rights, for the first time lawfully publishes or communicates to the public a previously unpublished work, shall have the rights equivalent to pecuniary rights of the author.

7. COMMON PROVISIONS APPLICABLE TO RELATED RIGHTS

7.1. Relationship between the Copyright and Related Rights

Article 140

Related rights shall in no way affect protection of the rights of authors with regard to their works.

7.2. Limitations on Related Rights, Exhaustion of Rights and Broadcasting

Article 141

The provisions of this Law regulating limitations and exhaustion of copyright, as well as the provision on broadcasting in Article 28 of this Law shall apply *mutatis mutandis* to related rights.

7.3. Transfer of Related Rights

Article 142

Related rights shall be transferable, with the exception of the performers' personal rights.

7.4. Right to Special Remuneration

Article 143

All holders of related rights, other than producers of databases, shall have the right to special remuneration in accordance with Article 38 of this Law, under the conditions identical to those applicable to authors.

7.5. Duration of Rights

Article 144

(1) Pecuniary rights of the performer shall last for 50 years from the date of the performance. If a performance was recorded and lawfully published or communicated to the public within this period, the term of protection shall expire 50 years from the date of the first publication or communication to the public, whichever date is earlier. A performer's moral rights shall last even after the expiration of his/her pecuniary rights.

(2) The rights of the phonogram producer or a videogram producer shall last for 50 years after the production of the phonogram or videogram. If the phonogram or videogram has been lawfully published or communicated to the public within this period, the term of protection shall expire 50 years from the date of the first publication or communication to the public, whichever date is earlier.

(3) The rights of the broadcast producer shall last for 50 years from the date of the protected broadcast's first broadcasting.

(4) The rights of the database producer shall last for 15 years from the date of the database's creation. If a database was made available to the public in whatever manner before expiry of that term, the term of protection shall expire 15 years from the date when database was first made available to the public.

(5) If substantial changes occur in the selection or arrangement of the contents of a database, the term referred to in Paragraph 4 of this Article shall be extended for another 15 years. Any additions, deletions or improvements of a database as a whole or the part thereof, resulting in a new version of such database, shall be deemed to be substantial changes in the selection or arrangement of the contents of a database.

(6) The rights of the first publisher of a free work shall last for 25 years from the date of the first publication or first communication to the public in any other manner.

(7) The expressions “communication to the public” and “publication” referred to in Paragraphs 1 and 2 of this Article shall have the same meaning as in the Article 7, Paragraph 1 and 2, of this Law.

(8) The provisions of Article 104 of this Law shall apply to calculation of the periods of time referred to in this Article.

7.6. Persons to which the Law Applies

Article 145

(1) Any performer, phonogram producer, videogram producer, broadcast producer, database producer and a publisher of a free work being a foreign person shall have the rights prescribed by this Law in accordance with the international agreements ratified by Serbia and Montenegro, or in accordance with the reciprocity principle between Serbia and Montenegro and the country he/she belongs to.

(2) Exceptionally to the provision of Paragraph 1 of this Article, a database producer being a legal person without corporate domicile in Serbia and Montenegro shall be granted the rights under this Law only if its business operations are linked directly and on an ongoing basis with the economy of Serbia and Montenegro.

(3) Where the existence of reciprocity is doubtful, the explanation shall be given by the administrative authority of the Council of Ministers responsible for foeirgn affairs.

Article 146

Any performer who is a foreign citizen shall be accorded the moral rights, regardless of whether the requirements referred to in Article 145 have been met.

IV. EXERCISE OF COPYRIGHT AND RELATED RIGHTS

Article 147

Any holder of copyright or related right shall be authorized to exercise his/her right either individually or collectively.

1. INDIVIDUAL EXERCISE

Article 148

(1) Copyright and related rights can be exercised individually either directly or through a duly authorised representative.

(2) Both natural or legal persons may act as representatives in the exercise of copyrights and related rights.

2. COLLECTIVE EXERCISE

2.1. Organization for Collective Exercise of Copyright and Related Rights

Article 149

(1) Copyright and related rights can be collectively exercised through organisations for the collective exercise of such rights (hereinafter: the organisation).

(2) The organisation shall not be established for the purpose of earning profit.

(3) The organisation shall specialise in the exercise of certain kinds of rights in connection with certain subject-matters of protection, in conformity with its statute.

Article 150

(1) Through the organization, the holders of copyright or related rights collectively exercise exclusive pecuniary rights stemming from copyright and/or related rights, as well as the right to claim the remuneration for their works and/or the subject-matters of related rights.

(2) In the case of exercising exclusive pecuniary rights, the holders of copyright and/or related rights shall, by the contract, licence their rights exclusively to the organisation, instructing it to conclude contracts on the non-exclusive licensing of such rights, in its own name and for their behalf, with the users of works of authorship and subject-matter of related rights (hereinafter: the users).

(3) In the case of exercise of the right to remuneration, the holders of copyright and/or related rights shall instruct the organisation to collect that remuneration from the users, in its own name and for their behalf.

(4) The organisation shall have the right to protect the rights entrusted to it by the holders of copyrights and/or related rights to be collectively exercised, before courts and other authorities.

(5) Upon the request of the organization, any authority responsible for maintaining the records of data that are relevant for determining the amount of remuneration, shall make such data available to the organisation.

2.2. Foundation of the Organization

Article 151

The organisation may be founded by authors and/or holders of copyright or related rights and/or their associations (hereinafter: the founders).

Article 152

(1) Memorandum of association shall be the founding document of the organisation.

(2) The founding decision shall be the founding document of an organisation founded by one association.

Article 153

The organisation may not engage in any activities other than those referred to in Article 150 of this Law.

Article 154

(1) The founders of the organisation shall obtain the organisation's operating license from the administrative authority of the Council of Ministers responsible for intellectual property matters (hereinafter referred to as: the competent authority).

(2) The application by the founders for the operating licence shall be accompanied with the organisation's founding document, draft statute and the proof that the prescribed administrative fee has been paid.

Article 155

The operating licence shall be issued to an organisation that meets the following requirements:

1) Has a corporate domicile in state of Serbia or in the state of Montenegro;
2) Its founders represent the majority of holders of copyrights and/or related rights which are residents or citizens of the state of Serbia or the state of Montenegro, in the field to which the organisation's business relates;
3) Which, in terms of staff, finances, equipment and organisation, is capable to efficiently exercise the rights of domestic and foreign holders of copyrights and/or related rights in the state of Serbia or state of Montenegro, and/or the rights of domestic holders of copyrights and/or related rights abroad in the fields to which its business relates.

Article 156

(1) The competent authority shall render a decision granting the operating licence or a decision rejecting the application, within 30 days from the filing date of the application for the operating licence.

(2) Based on the decision granting the operating licence, the organisation shall acquire the right to engage in the collective exercise of copyright and/or related rights for the period of five years as of the date of rendering the decision.

(3) The organisation shall have the right to apply for the renewal of its operating licence for an unlimited number of times.

Article 157

(1) The organisation shall acquire the status of a legal person once it is entered in the register of companies or other forms of organization, in accordance with the law regulating the conduct of business activities.

(2) The application the founders of the organisation for entry in the register referred to in paragraph 1 of this Article shall be accompanied with the decision of the competent authority granting its operating licence.

(3) Any organisation that does not renew its operating licence before the expiration of the term referred to in Article 156, paragraph 2, of this Law, or the one whose operating licence is revoked pursuant to Article 158 of this Law, shall be deleted from the register referred to in paragraph 1 of this Article.

Article 158

(1) The competent authority shall revoke the organisation's operating licence where it establishes that:

1) The operating licence was issued on the basis of false data;
2) The organisation has failed to apply the measures set by the competent authority towards eliminating the deficiencies in its operation, within the term set by the competent authority;
3) The organization has not fulfilled its obligation referred to in Article 171, Paragraph 3 of this Law.

(2) The decision on revoking the operating licence referred to in Paragraph 1 of this Article shall be final.

(3) The competent authority shall notify the authority competent for maintaining the register in which the organisation is registered, of the decision referred to in Paragraph 1 of this Article.

(4) The decision on granting, renewing and revoking of an operating licence shall be published in the Official Gazette of Serbia and Montenegro.

Article 159

(1) The organisation shall be entered in the register of organisations for the collective exercise of copyrights and related rights maintained by the competent authority.

(2) The following shall be entered in the register of organisations for the collective exercise of copyright and related rights referred to in Paragraph 1 of this Article: name and corporate domicile of the organisation, business activity of the organisation, date of entry, date of renewal of entry and the date deletion of the organisation from the register, contracts on co-operation with foreign organisations and the data on membership in international organisations.

(3) The organisation shall notify the competent authority of any change of data entered in the register of organisations for the collective exercise of copyrights and related rights, within fifteen days from the occurrence of such change.

(4) The changes referred to in Paragraph 3 of this Article shall be entered in the register of organisations for the collective exercise of copyrights and related rights.

2.3. Bodies of the Organization

Article 160

(1) The organisation shall be governed by its founders in accordance with the organisation's statute.

(2) The organisation's bodies shall be: General Assembly, Board of Directors, Managing Director and the Supervisory Board.

2.4. General Acts of the Organization

Article 161

(1) The organisation's general acts shall be: the Statute, Schedule of fees, Distribution plan and other general acts dealing with certain matters concerning the business activity of the organisation.

(2) The Statute shall be the organisation's basic act and other general acts shall be compliant with it.

(3) The individual acts adopted by the organisation's bodies and authorised officers of the organisation shall be compliant with the organisation's general act.

Article 162

(1) The Statute of the organisation shall include provisions on the kind and subject-matter of the rights collectively exercised through the organisation.

(2) The Statute of the organisation shall be adopted by the organisation's General Assembly.

Article 163

(1) The Schedule of Fees shall include the rates at which the organisation charges the users for the specific forms of exploiting the specific subject-matters of protection.

(2) The Schedule of Fees shall be set as a percentage of the income earned by the user by exploiting the subject-matters of protection. This percentage has to be proportionate to the significance of exploitation of the protected subject-matter from the organisation's repertoire for the user's income.

(3) If the user is not earning any income or if the exploitation of the subject-matter of protection is not directly associated with the income earned by the user, the fees shall be set as a percentage of the cost of exploiting the subject-matter of protection.

(4) If the user's income and/or expenses can not accurately be determined, or the determination of the income, and/or expanses or proportionality of the fee to the income is unreasonably difficult, the fees may be set as a lump sum. The lump sum shall be determined taking into account the amount of remuneration set for another user under the provisions of Paragraphs 2 and 3 of this Article, where such user is comparable to the concerned user with respect to subject-matter of the use, economic power and other relevant criteria.

(5) If a subject-matter of protection is exploited together with another subject-matter of protection and/or if there are several holders of rights for one exploitation, the fees shall be set proportionately.

(6) The schedule of fees shall be adopted by the organisation's Board of Directors.

(7) The tariff shall be published in the Official Gazette of Serbia and Montenegro.

Article 164

(1) The Distribution Plan shall include the criteria on the basis of which the organisation distributes to the holders of copyrights and/or related rights the income it has collected from the users as remuneration for exploitation of the subject-matter of protection.

(2) The principles of the Distribution Plan shall be the following: proportionality, suitability and fairness, depending on: the kind of subject of protection, manner of exploiting the subject of protection, extent to which the subject of protection is exploited and other objectives laid down in the organisation's acts.

(3) The Distribution Plan shall be adopted by the organisation's General Assembly.

Article 165

The organisation shall, in accordance with its Statute and decisions of its bodies, set aside a part of the income collected from users in order to cover the costs of its operation.

2.5. Application of Other Laws *Mutatis Mutandis*

Article 166

The provisions of the law regulating the legal status of companies shall apply *mutatis mutandis* to the organisation, unless otherwise provided by this Law.

2.6. Duties of the Organization

Article 167

(1) In the conduct of the organisation's business, it shall be assumed that organization is authorised to act on behalf of all holders of the copyright and/or related rights with respect to any rights and any kind of subject-matters of protection that are within the scope of its business activity.

(2) Any holder of a copyright and/or related right that has not concluded the contract referred to in Article 150 of this Law with the organisation, may notify the organisation of his/her intention to exercise the rights individually.

(3) The organisation shall notify the users of the names of the holders of copyright and/or related rights referred to in Paragraph 2 of this Article.

(4) Whit respect to the distribution of remuneration, the organisation shall treat the holders of copyright and/or related rights who have not notified the organisation of their intention to exercise their rights individually equally to the holders of copyright and related rights who have concluded the contract referred to in Article 150 of this Law with the organisation.

Article 168

(1) The organisation shall conclude a contract of non-exclusive licensing of the right of exploiting the subject-matter of protection from its repertoire with each interested user and/or association of users, under equal and appropriate terms.

(2) The contract referred to in Paragraph 1 of this Article shall include the following in particular: kind of the subject-matter of protection, mode of exploiting the subject-matter of protection, amount of remuneration and manner of its payment to the organisation and a period in which the contract is to be effective.

Article 169

The organisation shall distribute to the holders of copyright and/or related rights who have concluded with it the contract referred to in Article 150 of this Law and the holders of copyright and related rights referred to in Article 167, Paragraph 4, of this Law, the income from the remuneration collected from users, except for funds designated for the purposes referred to in Article 165 of this Law, in accordance with the Distribution Plan.

Article 170

(1) The distribution referred to in Article 169 of this Law shall be based on accurate data.

(2) If accurate data are not available and/or if the collection of accurate data would create an unacceptable organisational and financial burden for the organisation, the distribution plan may be based on estimates stemming from relevant and verifiable facts.

Article 171

(1) The organisation shall provide for the collective exercise of copyrights and related rights of domestic holders abroad, as well as those of foreign holders in the state of Serbia or the state of Montenegro, on the basis of contracts concluded with appropriate foreign organisations.

(2) The provisions of Paragraph 1 of this Article shall not apply to organisations for collective exercise of the rights for which reciprocal cooperation with the foreign organizations is not customary in the international practice.

(3) The organisation shall fulfil the duty referred to in Paragraph 1 of this Article within five years from the date of acquisition of the first operating license.

2.7. Duties of the Users

Article 172

(1) The users must acquire a license for the use of the subject-matter of the protection.

(2) The users shall notify the organisation of the name of the subject-matter of protection, frequency and extent of its exploitation, as well as of other circumstances of relevance for the calculation of the remuneration payable in accordance with the Schedule of Fees.

(3) The data referred to in Paragraph 1 of this Article shall be forwarded to the organisation within 15 days from the commencing date of exploitation of the subject of protection.

(4) The users who are authorised under this Law to exploit subject-matter of protection without permission of the right holders, and against payment of remuneration, shall forward the data referred to in Paragraph 1 of this Article monthly.

(5) An owner, holder and lessee of the premises in which the subject-matter of the protection was used, as well as the organizer of the activity by which the subject-matter was used, shall be jointly and severally liable for the user's obligations.

(6) In case of a dispute between the organization and the user regarding the amount of remuneration, the user shall pay the amount determined by the Schedule of Fees to the organization, in the special fond, which is not to be allocated to the holders of the right, until the dispute is resolved by the final and enforceable decision .

2.8. Supervision over the Organization's Activity

Article 173

(1) The competent authority shall supervise the organisation's activities.

(2) For purposes of the supervision, the organisation shall submit the following to the competent authority:

1) Annual business report and annual account;
2) Amendments to the Statute, Schedule of Fees and amendments thereto, remuneration Distribution Plan and amendments thereto, contracts with appropriate foreign organisations and court and administrative decisions where the organisation was party.

(3) The organisation shall submit the documents and data referred to in Paragraph 1 of this Article within 15 days from their adoption and/or the date of change.

Article 174

(1) The competent authority shall have the right to have its representatives present at the sessions of the organisation's bodies, as well as the right to inspect business records.

(2) The competent authority shall point at irregularities in the organisation's activity, issue an order for the application of measures for the elimination of irregularities and set a term for their elimination.

V. RECORDS OF WORKS OF AUTHORSHIP AND SUBJECT-MATTERS OF RELATED RIGHTS

Article 175

(1) For the purpose of securing the evidence, the holders of copyright and related rights may deposit copies of their works and subject-matters of related rights with the competent authority.

(2) The copies of works and subject-matters of related rights to be deposited shall be in the form of a written document (manuscript, printed text, musical score), sound, visual or audio-visual recording or in digital form.

(3) The competent authority shall keep a record of each kind of works of authorship and subject-matters of related rights.

(4) When a work of authorship or subject-matter of related rights is being deposited and entered into records, the holder of copyright or related right concerned shall give true and complete data about his/her work of authorship or subject-matter of related right.

(5) The data entered in the records shall be deemed true until proven to the contrary.

(6) Any *bona fide* person, who has infringed somebody else's copyright or related right in reliance on the accuracy of the data entered in the records, shall not be liable for damages for such infringement.

(7) The entry in records and depositing of the copies of works of authorship and subject-matters of related rights, shall in no way affect the onset and duration of the rights determined by this Law.

(8) The contents of the records referred to in Paragraph 3 of this Article and the requirements to be met by the copies of works and subject-matters of related rights that are being deposited shall be determined by a specific regulation.

Article 176

The prescribed fee shall be paid for entering the copies of authorship in the records and depositing them.

VI. PROTECTION OF COPYRIGHT AND RELATED RIGHTS

Article 177

(1) Any holder of copyright, performer, producer of a phonogram, producer of a videogram, producer of a broadcast, producer of a database and acquirer of exclusive license for copyright and related rights, may file a suit and request particularly the following:

1) Determination of the infringement of a right;
2) Termination of the infringement of a right;
3) Destruction or alteration of the objects instrumental to the infringement on rights, including copies of the subject-matter of protection, their packaging, stencils, negatives and the like;
4) Destruction or alteration of the tools and equipment that has been used for production of the objects instrumental to the infringement of rights, if so is necessary for the protection of rights;
5) Compensation for material damages;
6) Publication of the court decision at the defendant's expense.

(2) Any author and/or performer shall have the right to file a suit and rquest compensation for non-material damage for infringement of his/her moral rights.

(3) The provision of Paragraph 1, Item 3, of this Article shall not apply to the following:

1) Constructed works of architecture;
2) Separable parts of the object which was instrumental to the infringement of rights, if the production of such parts and marketing thereof are not illegal.

(4) The plaintiff may, instead of a request for the destruction or alteration of the objects that were instrumental to the infringement on a right (Paragraph 1, Item 3, of this Article), request such objects to be handed over to him/her.

Article 178

If the infringement of a pecuniary right was done intentionally or by gross negligence, the plaintiff may, instead of indemnity for material damage, claim up to threefold amount of usual remuneration that would have been paid had the concrete protected subject-matter been used lawfully.

Article 179

(1) Notwithstanding the provision in Article 9, Paragraph 2 of this Law, if the plaintiff's name is stated on the copy or other form of materialization of the author's work and/or subject-matter of related right, he will be considered to be the holder of copyright to that work and/or related right to that subject-matter of protection, until proven otherwise.

(2) Proceedings for the infringement on copyright and related rights shall be urgent.

Article 180

(1) Any of the following shall be deemed to be an infringement of the right:

1) The exploitation of any of the subject-matters of protection involving the use of copies of such subject-matter of protection that were made without authorisation, and/or are based on the unauthorized broadcasting;
2) Holding copies of the work of authorship or subject-matter of related right for commercial purposes, if the holder knows or has reason to know that such copies are produced without authorization;
3) Production, import, marketing, sale, rental, advertising for the purposes of sale or rental or holding for commercial purposes of the devices primarily constructed, produced or adjusted for enabling or facilitating the circumvention of any technological measure, which do not have any other significant purpose than the said one;
4) Circumvention of any technological measure, or supply or advertising of services enabling or facilitating such circumvention;
5) Removal or alteration of the electronic information regarding rights, or marketing, import, broadcasting or public communication in any other manner of the work of authorship or the subject-matter of the related rights, from which the electronic information on rights is removed or altered without authorization, where the perpetrator knows or has reason to know that by doing so he induces, enables, facilitates or conceals infringement of copyright or related right.

(2) For the purposes of Paragraph 1 of this Law:

1) the term "technological measures" shall mean any technology, device or component constructed in such manner as to prevent or restrict, during the normal course of its operation, the acts regarding the works of authorship or any other protected subject-matter, which are not authorised by the holder of copyright or holder of related rights;
2) the term "information on rights" shall mean any information originating from the holder of the right that identifies the work of authorship or the subject-matter of related right, the author, and/or the holder of the right, or the information on the conditions of the use of a work or subject-matter of related right, or any number or code representing such information.

Article 181

(1) Copyright and performers' rights may not be the subject of the judicial enforcement

(2) Only specific pecuniary claims stemming from the rights referred to in Paragraph 1 of this Article may be the subject of the judicial enforcement.

(3) Unfinished works and unpublished manuscripts may not be the subject the judicial enforcement.

Article 182

At the request of a holder of the right who makes it credible that his/her copyright or related right has been infringed on or will be infringed on, the court may order a provisional measure involving the seizure or removal from the market of the object with which the infringement is made and/or a provisional measure involving a prohibition against the acts under way, which could be conducive to infringement.

Article 183

(1) At the request of the holder of the right who makes it credible that his/her copyright or related right has been infringed, or that such infringement is imminent or that irreparable harm is likely to occur, as well as that there is a reasonable doubt that the evidence of that will be destroyed or that it will not be possible to obtain it later on, the court may order a measure to secure evidence without giving prior notice to or hearing the person from which evidence is to be collected.

(2) For the purposes of Paragraph 1 of this Article, the securing of evidence shall mean the inspection of premises, books, documents, databases, etc., as well as the seizure of documents and infringing goods, interrogation of witnesses and expert witnesses

(3) The court order for measures to secure evidence shall be served to the person from which evidence is to be collected, on the occasion of the collection of evidence, and to an absent person, as soon as that becomes possible.

Article 184

(1) Measures referred to in Articles 182 and 183 of this Law may be requested even before filing an action.

(2) In the case referred to in Paragraph 1 of this Article, decision establishing the measure shall contain the period in which the action has to be filed which shall not be shorter than 30 days from the execution of the measure.

(3) An appeal filed against a decision ordering a provisional measure referred to in Article 182 shall not stay the execution of the decision.

Article 185

(1) The court may order the defendant to furnish information about third parties related to the infringement or hand over documents relating to the infringement.

(2) The person that fails to perform its obligation referred to in Paragraph 1 of this Article shall be liable for the damage thus incurred.

Article 186

In the event of a dispute for the determination of rights of a publisher and/or a person who published a work whose author is unknown (Article 13), the court shall provide for the author's anonymity to be preserved.

VII. PENAL PROVISIONS

Article 187

(1) Any company, enterprise or company or any other legal person that:

1) discloses, records, reproduces or communicates to the public in any manner wholly or partly, a work of authorship, performance, phonogram, videogram, broadcast or database without permission, or markets or rents or holds in possession in commercial purposes copies of works of authorship, performances of phonograms, videograms, broadcasts or databases that have been reproduced or placed on the market without authorization (Articles 16, 20, 21, 22, 23, 25, 26, 27, 28, 114, 124, 129, 134 and 138);
2) markets or rents copies of works referred to in paragraph 1 of this Article, for the purpose of deriving pecuniary benefit for itself or somebody else, knowing that they were disclosed, recorded or reproduced without authorisation (Articles 16, 20, 21, 23, 25, 26, 27, 28, , 114, 124, 129, 134 and 138);
3) produces, imports, markets, sells, rents, advertises for the purposes of sale or renting, or holds for commercial purposes devices primarily constructed, produced or adjusted for enabling or facilitating the circumvention of any technological measure, which do not have any other significant purpose than the said one (Article 180, paragraph. 1 item 3);
4) circumvents any technological measure, or supplies or advertises the services which enable or facilitate such circumvention (Article 180, paragraph 1, item 4);
5) removes or alters electronic information on rights, or markets, imports, broadcasts or in any other manner communicates the work of authorship or the subject-matter of related right to the public, from which the electronic information on rights has illegally been removed or altered, while knowing or having reason to know that by doing so it instigates, enables, facilitates or conceals the infringement of a copyright or related right (Article 180, Paragraph 1, Item 5);
6) being the owner of a building, makes an alteration on the building which is materialized copy of the work of architecture without prior offering the author to do the alterations of the work (Article 37);
7) conducts collective exercise of copyright and/or related rights without permission of the competent authority (Article 156, paragraph 2).

shall be fined for economic offence.

(2) The responsible person in the company, enterprise or other legal person concerned shall also be fined for economic offence for any of the acts referred to in Paragraph 1 of this Article.

Article 188

Any natural person shall be fined for the misdemeanour for any acts referred to in Article 187, Paragraph 1, Item 3 (Article 37).

Article 189

(1) Business company, enterprise or other legal person that:

1) without stating the author's or performer's name or under different name, wholly or partially discloses, performs, presents, communicates the performance or presentation or broadcasts work of authorship or performance of another person (Article 15 and 112, paragraph 1, item 2);
2) without permission of the author modifies or adapts work of authorship or recorded performance of another person (Article 17, 30 and 112, paragraph 1. item 3.):
3) as a gallery keeper or an organizer of a public auction of original works of fine are, and/or original manuscripts does not inform the author of the work of name and address of the seller of its work, name and address of the new buyer and price which was paid or does not pay the author the amount of 3% of the sale price of the work within the period of 30 days as of the day of the sale of the original works and/or manuscripts (Article 34, paragraph 1 and 35, paragraphs 1 and 2).
4) gives incorrect data or deceives true data about its work of authorship or subject-matter of related rights when entering into the records and depositing work of authorship or subject-matter or related right with the competent authority (Article 175, paragraph 4);
5) as a publisher sells the unsold copies of the work as scrap paper without previously offering it to the author or his/her heirs for purchase (Article 79);

shall be fined for the misdemeanour.

(2) The responsible person in the company, enterprise or other legal person concerned shall also be fined for the misdemeanour for any of the acts referred to in Paragraph 1 of this Article.

(3) Natural person shall be fined for the misdemeanour for any acts referred to in paragraph 1, items 3, 4 and 5 of this Article.

Article 190

The fines referred to in Articles 187, 188 and 189 of this Law shall be established by the regulation of the member states.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Article 191

A performer whose right has expired prior to the effective date of this Law may not request the establishment of the right under this Law.

Article 192

Existing organizations for the collective exercise of copyright and related rights shall organize themselves in conformity with this Law and adjust their general acts to the provisions of this Law within a year from the day this Law comes into force.

Article 193

(1) All contracts concluded prior to the day this Law comes into force shall be performed in conformity with the law that was in force at the time such contracts were made.

(2) Provisions of Articles 68 and 69 of this Law shall apply to the contracts referred to in Paragraph 1 of this Article.

(3) Provisions of Article 28, paragraph 6 and Article 141 in relation to Article 28, paragraph 6 shall become effective after 2 years expire from the date this Law comes into force.

Article 194

(1) Provisions of this Law related to protection of copyright, performer's right, phonogram producer's right and broadcast producer's right, except for provisions of Articles 14 to 18, shall apply to both natural and legal persons as defined under the Article 1, Paragraph 3 of the TRIPs Agreement after ratification of this Agreement.

(2) Provisions of Articles 34 and 35 of this Law shall apply to nationals or residents of the member state of the World Trade Organizations only if the condition of reciprocity.

Article 195

Articles 100, paragraph 1, 101, 102 and 103 of this Law shall not apply to works of authorship whose term of protection has lapsed on the day this Law enters into force of.

Article 196

On the day when this Law comes into force, the provisions of the Law on Copyright and Related Rights (*SRJ OG* Nos. 24/98) shall cease to be effective.

Article 197

This Law shall come into force on the eight day from its publication in the “Official Gazette of Serbia and Montenegro”.