

**Council for Trade-Related Aspects of
Intellectual Property Rights**

Original: English/
anglais/
inglés

**MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS
NOTIFIED UNDER ARTICLE 63.2 OF THE AGREEMENT**

TURKEY

The present document reproduces the text¹ of the following laws and regulations, as notified by Turkey under Article 63.2 of the Agreement (see document IP/N/1/TUR/2):

	<u>Page</u>
- Regulation on Inspection of Cinema, Video and Music Works of Art	2
- Regulation on Enterprise License to Be Given to the Film, Video, Record and Cassette Administrators	8

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

TURQUIE

Le présent document contient le texte¹ des lois et réglementations ci-après, notifiées par la Turquie au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/TUR/2):

	<u>Page</u>
- Règlement sur l'inspection des œuvres d'art cinématographiques, vidéographiques et musicales	2
- Règlement sur l'octroi de licences d'entreprise aux administrateurs de films, de vidéocassettes, de disques et de cassettes	8

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

TURQUÍA

En el presente documento se reproduce el texto¹ de las siguientes leyes y reglamentos, que Turquía notificó de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/TUR/2):

	<u>Página</u>
- Reglamentación de la inspección de obras musicales, obras de cine y de vídeo	2
- Reglamentación de la licencia empresarial para administradores de empresas de cine, vídeo, discos y casetes	8

¹ In English only. The texts in the original language are available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter les textes dans leur langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC los textos en su idioma original.

REGULATION ON INSPECTION OF CINEMA, VIDEO AND MUSIC WORKS OF ART

Resolution number 86/10901

Publication in official gazette: 4.9.1986/19211

Regulation on amendment of some of its articles

Resolution number: 87/11716

Publication in official gazette: 26.6.1987/19499

Regulation about amendment of some of its articles

Resolution number: 88/13241

Publication in official gazette: 12.10.1988/199957

FIRST PART Objective-Scope-Phrases

Objective:

Article 1:

The objective of this regulation is to prevent the execution and display of the works of art consisting of cinema films, video bands, records and audio cassettes that may affect negatively the inseparable integrity of the state with its country, national sovereignty, republic, national security, public order, general ease, public interest, general ethics, general health and policy, that may hurt the national feelings or that are inappropriate to our national culture, customs and traditions.

Scope:

Article 2:

The provisions of this regulation comprises the organization of inspection committee and sub commissions, their duties, working principles and procedures; examining and inspection of the domestic produced or imported cinema films, video bands, records or audio cassettes and the scenarios depending on the request of the producer before they are presented to the public by their producers.

However, they shall not be implemented in examination and inspection of every kind of cinema film, television film, video band, record, audio cassettes, magnetic bands and similar ones, before they are presented to the public, that the third persons will produce, import or realize by the way of co-production with the native or foreign real or legal persons of the Company or by the way of ordering to be used at the Turkish Radio and Television Company and/or the publications in accordance with the Company.

Phrases:

Article 3:

The explanations of the phrases used in this regulation are as follows:

Ministry: Ministry of Culture and Tourism

Minister: Minister of Culture and Tourism

Committee: Inspection Committee

Commission: Sub-commission

Scenario: Text that is the base of the production of works of art of cinema and video

Poster: Advertisements at various shape and color produced for the introduction of the works of art of cinema, video and music.

Documentary Film: Productions that deal with a historic or old work of art, a situation from actual life or from the nature, any event experienced in the past or taken from the actual life in its natural environment or in settings formed later very closely to its original or productions that gain historic qualification as time passes.

Educative-Instructive Productions: Works of art that deal with the information, concepts, lesson subjects in a way that will be helpful for the education-instruction inside or outside the school.

Scientific works of art: Works of art that deal with scientific matters or discoveries.

Technical productions: Works of art that are prepared to give information on matters about production procedures, instrument machines and equipment, working and operation of them.

Contemporary works of art: Works of art produced with the aim of giving the events or real situations as news.

Commercial works of art: Works of art that do the introduction of the persons, establishments, objects or services.

Copy: Samples that are copied from the master bands, originals of the works of art.

Declaration: Standard form that has the qualifications of its producer, the work and information on and that is issued and given by the Ministry.

SECOND PART

Organization of inspection board and Sub-Commissions

Their Duties, Working Procedures and Qualifications of the Members:

Organization of the Sub-Commission:

Second and third paragraphs of Article 4 have been amended.

Article 4:

Sub-commissions composed of three persons to make the pre-inspection of the works of art can be formed by the Ministry.

“Commission forms from the representatives of Ministry and Related Vocation Union and Ankara and Istanbul Journalists Association that is beneficiary to the public. The commission chairman is elected by the members.

The Ministry can form more than one commissions if needed. These commissions can be formed in Istanbul and in other provinces when needed.”

The meeting places of the commissions shall be determined by the Ministry.

Chairmen and members who have duty in the commissions cannot be appointed to the inspection boards.

The secretarial services shall be carried on by the related units of the Ministry.

Duties of the commission:

(c), (d) and (e) sub paragraphs have been annexed to the 5th article.

Article 5:

The duty of the commission is; to prepare reasoned report by inspecting the copy of the work of art at appropriate size and form for the register and record transactions that shall be made by taking the declaration of the producer of the film, video and music works of art as a base in line with the objective of this regulation;

- a) Using the statement “positive, not necessary to be inspected” for the works of art they do not find necessary to inspect.
- b) Using the statement “necessary to be inspected by the Inspection Board” for the works of art they find obligatory and necessary to be inspected
- c) By inspecting the scenarios of the producers
- d) By giving the certificate “It has been declared that the work of art is in compliance with the Inspection Principles. The inspection is not necessary under the responsibility of the owner of the declaration.”
- e) By inspecting the music works of art that have inspection certificate dependent on declaration in case there is complaints.

Organization of the inspection board:

The second and fifth paragraphs of Article 6 have been amended.

Article 6:

The board forms from; the representatives from the Ministry of Education and Youth and Sports, General Secretariat of National Security Council, Ministry of Interior, Cinema Works of Arts Owners Vocation Union of Turkey, Music Works of Arts Owners Vocation Union of Turkey and one artist member chosen by the Minister under the chairmanship of the representative of the Ministry sent by the Minister. “Board shall be assembled in Istanbul and in other provinces in case it is needed. The number of the boards shall be determined by the Ministry according to the volume of the work.”

The Ministries instruct their representatives and substitutes themselves.

Chairmen and members instructed in a board cannot be instructed in other boards and sub commissions.

“The boards shall assembly at places determined by the Ministry.”

The amount of the travel expenditures, travel expenses, money for attendance to a meeting of the non-officials of the commission and board shall be determined by the Ministry approval every year.

These expenditures shall be met from the cinema and music art subvention fund.

Duties of the inspection board:

(B) sub-paragraph of Article 7 has been abolished and it has been amended as (C) and (B) sub paragraphs.

Article 7:

Duties of the inspection board are as follows:

A) To prepare a report by inspecting the works of art within the framework of the principles provisioned in the 9th article.

a) To prepare a report with the statement “positive as a result of the inspection” for the positive film, video and music works of art.

b) To prepare a report with the statement “the distribution and display are inappropriate” for the negative film, video and music works of art and send it to the related unit to be considered.

c) To prepare a detailed and reasoned report for the works of art that have been corrected and that were decided to be re-inspected.

B) To inspect any work of art on its own account or as a result of the Ministry’s request.

Working Procedure of the Sub-commission and Inspection Boards:

The third paragraph of Article 8 has been amended.

Article 8:

The duty distribution to the commission and boards shall be made according to the order of application.

No one is entitled to be present in the studies of the commissions and boards except for the Chairman, members and officials. The producer of the work of art can participate as an observer. The commissions assemble with all of their members, the boards assemble with the two third majority of the full number and take decisions with the two third majority.

As a result of the boards’ offer, representatives can be requested from ministries or establishments that have no member at the boards by the ministry to receive the opinions about the inspections. These representatives do not have the right of vote.

In cases when the payments of the translators, who shall be charged (simultaneous translation) at the commissions and boards when needed, are not paid by the Ministry, Cinema and Music Art Subvention Fund, they shall be paid by the producer of the work of the art.

THIRD PART

Common Provisions On Inspection

Cinema, Video and Music Works of Art that cannot be permitted for Display and Execution:

Article 9:

The display and execution of the film, video and music works of art shall not be permitted, which contain elements of offense or incite to offense from the aspect of the indivisible integrity of the state with its country and nation, national sovereignty, republic, national security, public order, general ease, public interest, general ethics, general health and which are inappropriate to the foreign policy, to our national culture, customs and traditions.

Removing Process:

Article 10:

The removals to be made from the cinema and video works of art containing one or more of the matters stated in the 9th article shall be made by the commissions and boards in case the producer approves. The removal from the imported cinema film and video works of art shall be returned to their owner while going abroad.

Objection to the Resolutions of the Inspection Board:

Article 11:

The board's resolution, stating that the presentation of the film, video and music work of art to the public is in no way appropriate, can not be objected. However, administrative justice can be applied for.

Cinema, Video and Music Works of Art Harmful to the Children

Article 12:

The display and execution of the film, video and music works of art, which are determined probable to affect the mental and physical health, the growing up of the children in a negative way, shall not be permitted to children under the age of 16.

It is obligatory to state this matter in the posters, photographs and advertisements introducing the film, video and music work of art.

Works of Art with Educative Purpose:

Article 13:

The quality of the film, video and music works of art brought to the commissions and boards that have educative purpose shall be stated in the resolutions and shall be registered to the establishment certificate.

FOURTH PART
Various Provisions

Application of the Producers:

Article 14 has been amended.

Article 14:

It is obligatory for the producers to enclose a short summary of the work of art, a translation of the foreign music work of art if there is any or a signed document stating that he takes all the responsibility of the lyrics to the declaration to be given to the Ministry for the cinema, video and music works of art to be inspected by the sub commissions.

Article 15:

The producers who want the scenarios to be inspected shall apply to the Ministry with four copies of the scenario and a short summary of the scenario enclosed to their petition.

The name, mailing address of the producer and the name of the scenarist shall be included in the petition.

Art Activities:

Article 16 has been amended.

Article 16:

The foreign film and video works of art brought from the foreign countries to be displayed to the public in the expositions, film festivals and public rejoices that shall be organized in Turkey or to participate in the competitions shall not be

inspected. However, it is obligatory for the related organization committees on these activities to get appropriate and positive approval from the Cinema Works of Art Owners Vocation Union of Turkey established according to Article 42 article of law numbered 5846. Domestic film and video works of art with enterprise certificate can participate in these activities in the same way.

Validity:

Article 17:

This regulation comes into force on its publication date.

Execution:

Article 18:

The Minister of Culture and Tourism executes the provisions of this regulation.

REGULATION ON ENTERPRISE LICENSE TO BE GIVEN TO THE FILM, VIDEO, RECORD AND CASSETTE ADMINISTRATORS

Resolution Number: 86/10899

Publication in Official Gazette: 4.9.1986/19211

Regulation on amendment of some of the articles and annexing a provisional article to this regulation.

Resolution Number: 87/11715

Publication in Official Gazette: 26.6.1987/19499

The name of the Regulation has been amended with Article 1.

Objective:

Article 1 has been amended.

Article 1:

The objective of this regulation is to determine who shall be licensed as the administrator, their qualifications, the principles that shall be implemented and other matters and exceptions related with this work, by municipalities and by the superior civil administrative chief outside the borders of municipalities.

Scope:

Article 2:

This regulation comprises the requested qualifications, the conditions that shall be followed and other methods and principles, for the real and legal persons to have an enterprise license demanding to copy films, videos, records, cassettes and similar works having an enterprise certificate for commercial purposes, to make collective sale or retail distribution, to sell, rent and display for more than one person.

Real and Legal Persons that shall be given Administrator License:

The first paragraph of Article 1 has been amended.

Article 3:

Administrator license shall be given to the real and legal persons, demanding to copy films, videos, records, cassettes and similar works for commercial purpose, to distribute and sell, to sell by retail, to rent, to display for more than one person by the municipalities, or in places outside the borders of municipalities by the superior administrative chief only if they carry the qualifications stated in article 4 and if they can execute the conditions. The administrator who has taken administrator license and doing collective copying and distribution shall be obliged to take his copying right from the producer by a document prepared by the notary public.

The subject of this activity is shown separately in the administration license.

Qualifications and conditions:

Article 4 has been amended.

Article 4:

From the ones, who applied to the municipalities and to the superior administrative authorities in places outside the borders of municipalities, demanding to get administration license, necessary materials and equipment for the controlling of videos and cassettes shall be required in working places and sharing a proper stand shall be required in the working places that are not independent.

Display of the films and video works of art**Article 5:**

The persons demanding to display films and video works of art in public, relaxation, recreation and entertainment places shall also be obliged to have a administrator license. The works without the special of "Usable in open-public places" on the producer's banderole shall not be displayed in open-public places.

Exceptions:**Article 6:**

Public institutions, establishments and foundations shall not be obliged to get administrator license due to their selling, displaying and distribution activities of educational, instructive, country introducing, scientific and social films, videos, records and cassettes. However, they shall be obliged to get the administration license in case these activities are executed for commercial purposes in a working place.

The Turkish Radio and Television Company shall not be considered as administrator due to its displaying, selling, distributing activities of films, videos, advertisements, records, cassettes, magnetic bands and similar works, therefore administration license shall not be given.

Provisional Article:

The administrators, who were active before this regulation had come into force, shall be obliged to get administration license within 3 months from the Municipalities.

A provisional article has been annexed.

Provisional Article:

The administrators, who were active in the places out of the borders of municipalities before the regulation had come into force, shall be obliged to get the administration license from the superior civil administrative chief within 3 months.

Validity:**Article 7:**

This regulation shall come into force on the date of its publication.

Execution:

Article 8:

The provisions of this regulation shall be executed by the Minister of Culture and Tourism.
