

**WORLD TRADE ORGANIZATION**

RESTRICTED

**ORGANISATION MONDIALE DU COMMERCE**

**IP/N/1/SVN/1/Add.2**

17 October 1995

**ORGANIZACIÓN MUNDIAL DEL COMERCIO**

(95-3134)

---

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

Original: English/  
anglais/  
inglés

NOTIFICATION OF LAWS AND REGULATIONS  
UNDER ARTICLE 63.2 OF THE AGREEMENT

Slovenia

Addendum

*The Copyright and Related Rights Act, 1995.<sup>1</sup>*

---

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

NOTIFICATION DES LOIS ET REGLEMENTATIONS  
AU TITRE DE L'ARTICLE 63:2 DE L'ACCORD

Slovénie

Addendum

*Loi sur le droit d'auteur et les droits connexes, 1995.<sup>1</sup>*

---

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

NOTIFICACIÓN DE LEYES Y REGLAMENTOS DE CONFORMIDAD  
CON EL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO

Eslovenia

Addendum

*Ley de Derecho de Autor y Derechos Conexos, de 1995.<sup>1</sup>*

---

<sup>1</sup>English only/anglais seulement/en inglés solamente.

REPUBLIC OF SLOVENIA

COPYRIGHT AND RELATED RIGHTS ACT<sup>2</sup>

Contents

Chapter One - GENERAL PROVISIONS

Chapter Two - COPYRIGHT

Section 1 - Copyright works

Section 2 - The author

Section 3 - Copyright

Subsection 1 - General Provisions

Subsection 2 - Moral Rights

Subsection 3 - Economic Rights

Subsection 4 - Other Rights of the Author

Subsection 5 - Relationship between Copyright and Ownership

Section 4 - Limitations on Copyright

Subsection 1 - Legal Licences

Subsection 2 - Free Use

Section 5 - Limitation on the Duration of Copyright

Chapter Three - TRANSFER OF COPYRIGHT

Section 1 - General Provisions

Section 2 - General Part of Copyright Contract Law

Section 3 - Special Part of Copyright Contract Law

Subsection 1 - Publishing Contract

Subsection 2 - Performance Contract

Subsection 3 - Contract for a Work Made for Hire

Subsection 4 - Employment

Chapter Four - SPECIAL PROVISIONS FOR COPYRIGHT WORKS

Section 1 - Audiovisual Works

Section 2 - Computer programs

---

<sup>2</sup>Of 30 March 1995.

Slovenian title: Zakon o avtorskih in sorodnih pravicah - translation by Andrej Zupancic, Copyright Agency of Slovenia, Ljubljana.

Entry into force: 29 April 1995.

Source: Uradni list Republike Slovenije, No. 21/1995, of 14 April 1995. p.1585.

Chapter Five - RELATED RIGHTS

- Section 1 - Rights of performers
- Section 2 - Rights of producers of phonograms
- Section 3 - Rights of film producers
- Section 4 - Rights of broadcasting organizations
- Section 5 - Rights of publishers

Chapter Six - ADMINISTRATION OF RIGHTS

- Section 1 - General provisions
- Section 2 - Collective administration

Chapter Seven - PROTECTION OF RIGHTS

- Section 1 - General provisions
- Section 2 - Judicial protection
- Section 3 - Measures for the Enforcement of Protection

Chapter Eight - RELATIONS WITH FOREIGN ELEMENTS

Chapter Nine - PENAL PROVISIONS

Chapter Ten - TRANSITIONAL AND FINAL PROVISIONS

## Chapter One GENERAL PROVISIONS

### Scope of the Act Article 1

This Act regulates:

1. The right of authors with respect to their works of literature, science and art (copyright);
2. The rights of performers, producers of phonograms, film producers, broadcasting organizations, and publishers (related rights);
3. Individual and collective administration of copyright and related rights.

### Public Article 2

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

### Disclosure and Publication Article 3

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

### Relation Between Copyright and Related Rights Article 4

- (1) Protection of related rights under this Act shall leave intact and shall in no way affect the protection of copyright.
- (2) Provisions of this Act concerning definitions of economic rights, relationship between copyright and ownership, limitations on copyright, calculation of the term of protection and transfer of copyright (Sections 1 and 2 of Chapter three of this Act), shall apply *mutatis mutandis* to related rights.

## Chapter Two COPYRIGHT

### Section 1 COPYRIGHT WORKS

#### Protected Works Article 5

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

- (2) As copyright works are considered in particular:
1. Spoken works such as speeches, sermons, and lectures;
  2. written works such as belletristic works, articles, manuals, studies, and computer programs;
  3. musical works with or without words;
  4. theatrical or theatrico-musical works, and works of puppetry;
  5. choreographic works and works of pantomime;
  6. photographic works and works produced by a process similar to photography;
  7. audiovisual works;
  8. works of fine art such as paintings, graphic works, and sculptures;
  9. works of architecture such as sketches, plans, and built structures in the field of architecture, urban planning, and landscape architecture;
  10. works of applied art and industrial design;
  11. cartographic works;
  12. presentations of a scientific, educational or technical character (technical drawings, plans, sketches, tables, expert opinions, three-dimensional representations, and other works of similar nature).

#### Elements of a Copyright Work Article 6

- (1) Draft, component parts and the title of a work, which are in itself individual intellectual creations, shall enjoy the same protection as the work itself.
- (2) Regardless of the foregoing paragraph, it is not permitted to use for a title of a work such title as has already been used for the same kind of work, if such title creates or is likely to create confusion as to the source of the work.

#### Transformations of Works Article 7

- (1) Translations, adaptations, arrangements, changes and other transformations of a pre-existing work or of other material, which are individual intellectual creations, shall be deemed independent works.
- (2) Rights of authors of pre-existing works must not be infringed by transformations mentioned in the foregoing paragraph.

Collections  
Article 8

- (1) Collections of works or of other material, such as encyclopedias, anthologies, databases, collections of documents, etc., which, by virtue of selection, coordination or arrangement of their contents, are individual intellectual creations, shall be deemed independent works.
- (2) Rights of authors of pre-existing works shall not be infringed by the inclusion of such works in a collection; by the inclusion in a collection, pre-existing material does not become a protected work.

Non-Protected Creations  
Article 9

- (1) Copyright protection shall not be afforded to:
  1. Ideas, principles, discoveries;
  2. official legislative, administrative and judicial texts;
  3. folk literary and artistic creations.
- (2) Translations of texts mentioned under item 2 of the foregoing paragraph shall enjoy copyright protection, unless they are published as official texts.

Section 2  
THE AUTHOR

A Natural Person  
Article 10

An author is a natural person who created the work.

Presumption of Authorship  
Article 11

- (1) A person whose name, pseudonym or artist's mark appears in the customary manner on the work itself or is so indicated at the time of disclosure of the work, shall be presumed the author of the work, until proved otherwise.
- (2) Where the author is not known according to the foregoing paragraph, the person who published the work is presumed to be entitled to exercise the author's rights. If this person is also not indicated, than the one who disclosed the work is so entitled.
- (3) The foregoing paragraph shall cease to apply once the author becomes known. The person entitled under the foregoing paragraph, must transfer the benefits derived from the author's rights to the author, unless otherwise provided by contract.

Co-Authors  
Article 12

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

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

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

Authors of Compound Works  
Article 13

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

Section 3  
COPYRIGHT

Subsection 1  
GENERAL PROVISIONS

Origin of Copyright  
Article 14

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

Content of Copyright  
Article 15

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

Subsection 2  
MORAL RIGHTS

Content  
Article 16

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

Right to the First Disclosure  
Article 17

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

Right to Recognition of Authorship  
Article 18

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

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

Right to Integrity of the Work  
Article 19

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

Right to Withdrawal  
Article 20

- (1) The author has the exclusive right to revoke his assigned economic right from its holder, provided he has serious moral reasons for this, and on condition that he first reimburses the damage caused to the right holder by such revocation.
- (2) With the exercise of the right to withdrawal, the economic right of the holder is extinguished.
- (3) The author must adequately reimburse the holder. The holder must notify the author of the extent of damages suffered by him within three months of the receipt of the notice of revocation. If the holder fails to do so, the right to withdrawal takes effect on the expiration of this term.
- (4) If the author later wishes to transfer the economic rights in his work again, he shall be required, within the period of 10 years after exercising his right to withdrawal, to offer these rights first to the previous holder, under the same conditions that were originally stipulated.
- (5) The provisions of this article do not apply to computer programs, audiovisual works and databases.

Subsection 3  
ECONOMIC RIGHTS

Content  
Article 21

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

Economic Rights  
Article 22

- (1) Exploitation of the work in material form includes in particular the following rights of the author:
  1. The right of reproduction (Article 23);
  2. the right of distribution (Article 24);
  3. the rental right (Article 25);
- (2) Exploitation of the work in non-material form (public communication of the work), includes in particular the following rights of the author:
  1. The right of public performance (Article 26);



2. the right of public transmission (Article 27);
3. the right of public communication by means of phonograms and videograms (Article 28);
4. the right of public presentation (Article 29);
5. the right of broadcasting (Article 30);
6. the right of rebroadcasting (Article 31);
7. the right of secondary broadcasting (Article 32);

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

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

#### Right of Reproduction Article 23

(1) The right of reproduction is the exclusive right to fix the work in a material medium or in another copy, irrespective of the type of method or copy, or of their number.

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

#### Right of Distribution Article 24

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

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

#### Rental Right Article 25

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

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

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

Right of Public Performance  
Article 26

The right of public performance includes the exclusive rights:

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

Right of Public Transmission  
Article 27

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

Right of Public Communication by Means of  
Phonograms or Videograms  
Article 28

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

Right of Public Presentation  
Article 29

The right of public presentation is the exclusive right to communicate to the public, by technical means, an audiovisual work, a photographic work, a work of fine art, a work of architecture, urban planning, applied art, industrial design, and cartography, or a presentation of scientific or technical nature.

Right of Broadcasting  
Article 30

- (1) The right of broadcasting is the exclusive right to communicate a work to the public by radio or television programme signals, intended to the public, either by wireless means (including satellite), or by wire (including cable or microwave system).
- (2) Communication to the public by satellite, within the meaning of the foregoing paragraph, exists when under the control and responsibility of a broadcasting organization programme-carrying signals intended for reception by the public are sent in an uninterrupted chain of communication to a satellite and back to Earth.
- (3) If the programme-carrying signals are encrypted, communication to the public by satellite shall be deemed to have occurred, within the meaning of the foregoing paragraph, on condition that the means for decoding of broadcasts are provided to the public by the broadcasting organization, or with its consent.

### Right of Rebroadcasting Article 31

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

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

### Right of Secondary Broadcasting Article 32

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

### Right of Transformation Article 33

- (1) The right of transformation is the exclusive right to translate, adapt for stage, musically arrange, alter, or otherwise transform a pre-existing work.
- (2) The right mentioned in the foregoing paragraph applies also to cases where a pre-existing work is included or incorporated in a new work in unaltered form.
- (3) The author of a pre-existing work retains the exclusive right to use his work in its transformed version, unless otherwise provided by this Act or by contract.

## Subsection 4 OTHER RIGHTS OF THE AUTHOR

### Right of Access and of Delivery Article 34

- (1) The author has a right of access to the original or to a copy of his work, which is in the possession of another, if such access is necessary for the exercise of his right of reproduction or of transformation of the work, and does not adversely affect the legitimate interests of the possessor.
- (2) The author may demand that the original of his work of fine art or of a photographic work be delivered to him for the purpose of exhibition in the Republic of Slovenia, if he can demonstrate a prevailing interest.
- (3) Delivery of the original, according to the foregoing paragraph, may be conditioned upon posting of sufficient security or upon acquiring insurance coverage in the amount of market value of the original.
- (4) The author must effect the access and exhibition with the least inconvenience to the possessor, and at his own expense. The author is strictly liable for any damage to the original or copy of the work.

Droit de Suite  
Article 35

- (1) If the original of a work of fine art is sold, or if the ownership to it is transferred by some other legal transaction against payment, the author has the right to be notified of such transfer, as well as the right to a remuneration in the amount of 3 per cent of the selling price.
- (2) The person transferring the ownership of the work is liable to pay to the author the remuneration, mentioned in the foregoing paragraph. If the transfer of ownership is effected through a gallery, auction house, or other agent, these persons are jointly liable with the person transferring the ownership.
- (3) The duty of notification mentioned in paragraph (1) of this Article, refers to the specification of sold originals, information on the vendor and the retail selling price, as well as to the right of the author to inspect, to the necessary extent, the books or other documents of liable persons.
- (4) Droit de suite may not be waived or assigned during the life of the author, and is not subject to execution.

Public Lending Right  
Article 36

- (1) Public lending right is the right to equitable remuneration, when the original or a copy of a work is made available for use, for a limited period of time, without direct or indirect economic advantage, and if done through public establishments or establishments having public prerogatives.
- (2) The foregoing paragraph shall not apply to the use of:
  1. Originals or copies of written works in public libraries;
  2. architectural structures;
  3. originals or copies of works of applied art and industrial design;
  4. originals or copies of works for the purpose of public communication;
  5. works, for on-the-spot reference, or for lending among establishments;
  6. works, by persons acting within the scope of their employment, if such use is intended exclusively for the execution of their work related duties.
- (3) Lending of originals or copies of computer programs and databases to the public is the exclusive right of their author.

Right to Remuneration  
Article 37

- (1) The author has a right to equitable remuneration for making a sound or visual fixation, and for photocopying of his work, done within the scope of private or other internal use, under Article 50 of this Act.
- (2) Remuneration under the foregoing paragraph with respect to sound or visual fixation shall be paid:

1. Upon the first sale or importation of new appliances for sound or visual fixation, and
  2. upon the first sale or importation of new blank audio or video fixation mediums.
- (3) Remuneration under paragraph (1) of this Article, with respect to photocopying shall be paid:
1. Upon the first sale or importation of new appliances for photocopying, and
  2. monthly, on the probable number of photocopies made for sale.
- (4) For the purpose of this Article, the term "photocopying" includes other similar technical means of reproduction.
- (5) The right to remuneration under paragraph (1) of this Article may not be waived, assigned during the life of the author, and is not subject to execution.

Persons Liable  
Article 38

- (1) Persons liable to pay remuneration under the foregoing Article are: manufacturers of appliances for sound or visual reproduction; manufacturers of appliances for photocopying; manufacturers of blank audio or video fixation media; and holders of appliances who are offering photocopying services against payment. Jointly liable with manufacturers are importers of appliances and fixation media, unless such imports are intended for private and non-commercial use, as part of their personal luggage. (*de minimis* imports)
- (2) Manufacturers mentioned in the foregoing paragraph are not liable to pay remuneration with respect to such appliances or fixation media which are made for exportation.
- (3) Persons mentioned in paragraph (1) of this Article shall, on request of a collecting society, submit information about the type and number of sold or imported devices and carriers, mentioned in the foregoing Article, as well as such information about the photocopies sold, as is necessary for the calculation of the remuneration due.

Amount of Remuneration  
Article 39

- (1) The amounts of remuneration for private and other internal reproduction which belong collectively to all persons entitled under this Act shall be set by the Government of the Republic of Slovenia.
- (2) The amounts mentioned in the foregoing paragraph shall be set separately: for each appliance for sound fixation and each appliance for visual fixation; for each fixation appliance which due to its design, does not require separate mediums for its operation (double the amount); for each sound and visual fixation medium depending on the possible duration of the fixation; for each appliance for photocopying, depending on its capability (number of copies per minute), and its capacity to make colour copies (double the amount of black-and-white copying); as well as for each photocopy made for sale.
- (3) The Government of the Republic of Slovenia shall adjust the amounts mentioned in this Article, according to fluctuations in retail prices in the Republic of Slovenia, as appropriate.

Subsection 5

RELATIONSHIP BETWEEN COPYRIGHT AND OWNERSHIP

General Provision  
Article 40

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

Separate Transfers  
Article 41

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

Community Property of Spouses  
Article 42

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

Exhaustion of the Right of Distribution  
Article 43

- (1) By the first sale or other form of acquisition of ownership in an original or a copy of a work in the Republic of Slovenia, made by an express or tacit consent of the author, the right of distribution with respect to such original or copy of a work is exhausted as regards the territory of the Republic of Slovenia.
- (2) The foregoing paragraph does not apply to the author's exclusive right to permit the importation of copies of the work to a certain country, unless otherwise provided by international agreement.
- (3) The foregoing paragraph does not apply to the importation of copies intended for private and non-commercial use of a person, as a part of its personal luggage. (*de minimis* imports)

Limitation on the Right of Transformation  
Article 44

- (1) If the owner of an architectural structure intends to make reconstructions, he should first offer the making of such reconstruction to the author of the work, if the author is still living and can be reached in a customary manner.
- (2) If the author unjustifiably refuses to accept the offer, the owner is free to make the intended reconstructions. When making the reconstructions, the owner must respect the moral rights of the author.

Protection of the Original of the Work  
Article 45

- (1) The owner of an original of a work, who according to the circumstances of the case, should presume that the author has a justifiable interest in its preservation, shall not destroy such original, before offering it to the author at the cost of material.
- (2) If the return is not possible, the owner shall allow the author to make a copy of the work, in an appropriate manner.
- (3) In case of an architectural structure, the author has only the right to make photographs of the work and to demand the delivery of the reproductions of designs at his own expense.

Section 4  
LIMITATIONS ON COPYRIGHT

General Provision  
Article 46

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

Subsection 1  
LEGAL LICENCES

Teaching and Periodicals  
Article 47

- (1) Without the assignment of a respective economic right, but on payment of equitable remuneration, it shall be lawful:
  1. To reproduce in readers and textbooks intended for teaching, parts of works, as well as single works of photography, fine arts, architecture, applied art, industrial design and cartography, provided these are already disclosed works of a number of authors;
  2. to reproduce in periodical publications articles on current topics of general interest published in other periodicals, unless the author expressly prohibited it.
- (2) Provision of the foregoing paragraph apply accordingly to public communication of the works mentioned therein.
- (3) In cases stated in the foregoing paragraphs, the source and authorship of the work must be indicated, if the latter is indicated on the work used.

Subsection 2

FREE USE

Right to Information

Article 48

- (1) In order to have free access to information of public nature it shall be permissible:
  1. To reproduce works, which are capable of being seen or heard as a part of a current event that is being reported on;
  2. to prepare and reproduce abstracts of published newspaper and similar articles in the form of press reviews;
  3. to reproduce public political speeches and public speeches made at hearings before state, religious or similar bodies;
  4. to use the news of the day, which have the nature of a press release;
- (2) Provisions of the foregoing paragraph apply *mutatis mutandis* to public communications of the works mentioned therein.
- (3) In cases stated in the foregoing paragraphs, the source and authorship of the work must be indicated, if the latter is indicated on the work used.

Teaching

Article 49

- (1) For the purpose of teaching it shall be permissible to:
  1. Publicly perform a disclosed work in the form of direct teaching;
  2. publicly perform a disclosed work at school events with free admission, on condition that the performers receive no payment for their performance;
  3. rebroadcast a radio or television school broadcast.
- (2) In cases stated in the foregoing paragraph, the source and authorship of the work must be indicated, if the latter indicated on the work used.

Private and Other Internal Reproduction

Article 50

- (1) Taking into account the provisions of Article 37 of this Act, the reproduction of a disclosed work shall be free, if made in no more than three copies:
  1. For the purpose of private use of a natural person, provided such copies are not available to the public, or
  2. for the purpose of internal use of public archives, public libraries, and educational or scientific institutions, provided such reproductions are made from their own copy.



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

(3) Regardless of the provisions of the foregoing paragraph, it shall be permissible, under the conditions of paragraph (1) of this Article:

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

#### Quotations Article 51

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

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

#### Accessory Works of Secondary Importance Article 52

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

#### Free Transformations Article 53

Transformation of a disclosed work is permissible:

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

#### Catalogues of Exhibitions or Collections Article 54

(1) Works which are displayed at publicly accessible exhibitions, auctions, fairs, or collections may be reproduced and distributed in catalogues published for this purpose by the organizers of such displays.

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

#### Works Located in Generally Accessible Premises

##### Article 55

(1) Works permanently placed in parks, streets, squares, or other generally accessible premises may be used freely.

(2) Works mentioned in the foregoing paragraph may not be reproduced in a three-dimensional form, used for the same purpose as the original work, or used for economic gain.

(3) In cases stated in paragraph (1) of this Article, the source and authorship of the work must be indicated, if the latter is indicated on the work used.

#### Evidentiary Procedure

##### Article 56

Use of a work in an arbitrary, judicial, administrative or any other proceeding before an agency of the State, to the extent necessary for evidentiary purposes, is free.

#### Testing of Equipment

##### Article 57

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

#### Section 5

### LIMITATIONS ON THE DURATION OF COPYRIGHT

#### Effect of the Lapse of Time

##### Article 58

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

#### General Provision

##### Article 59

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

#### Co-Authors

##### Article 60

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

## Anonymous and Pseudonymous Works

### Article 61

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

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

## Audiovisual and Collective Works

### Article 62

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

## Special Term for Certain Undisclosed Works

### Article 63

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

## Serial Works

### Article 64

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

## Collections

### Article 65

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

(2) "Insubstantial changes", within the meaning of the foregoing paragraph, are additions, deletions, or alterations to the selection or arrangement of the contents of a collection, which are necessary in order that this collection may continue to function in the way it was intended by its author.

## The Right of Withdrawal

### Article 66

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

## Calculation of Terms

### Article 67

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

## Chapter Three

### TRANSFER OF COPYRIGHT

#### Section 1 GENERAL PROVISIONS

##### Succession Article 68

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

##### Non-Transferability of Copyright as a Whole Article 69

Copyright as a whole cannot be transferred.

##### Assignment of Individual Rights Article 70

- (1) An author may not assign his moral rights to other persons.
- (2) An author may assign to other persons single economic rights and other rights of the author, either by contract or by another legal transaction recognized in law.

##### Execution Article 71

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

##### Legal Capacity Article 72

Rights recognized by this Act to the author, including the right to seek legal redress, belong to another right holder to the extent in which they are transferred to him by law or by legal transaction, unless otherwise provided by this Act.

#### Section 2 GENERAL PART OF COPYRIGHT CONTRACT LAW

##### Scope of Assignment Article 73

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

##### Exclusive and Non-Exclusive Assignment Article 74

- (1) A non-exclusive assignment gives an assignee the right to exploit the work according to the terms of the assignment and in competition with both the author and other assignees.

(2) An exclusive assignment gives an assignee the right to exploit the work according to the terms of the assignment and to the exclusion of the author and any other person.

(3) Non-exclusive assignment made prior to a subsequent exclusive assignment is valid and effective as to the assignee of the exclusive rights, unless otherwise provided by the agreement between the author and the assignee of the non-exclusive rights.

#### Presumptions as to the Scope of Assignment

##### Article 75

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

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

#### The Rule of Separate Assignments

##### Article 76

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

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

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

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

#### Presumptions of Joint Assignment

##### Article 77

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

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

1. To make fixations of the work, on condition that the broadcasting organization makes such fixations with its own facilities and for its own broadcasts, that it broadcasts them only once, and that it destroys such fixations no later than one month after the broadcast (ephemeral fixations); and

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

#### Subsequent Assignments

##### Article 78

- (1) An assignee to whom an economic right or other author's right has been assigned, may not, without the consent of the author, further assign this right to a third party, unless otherwise provided by contract.
- (2) Consent, mentioned in the foregoing paragraph, is not required where subsequent transfer of the right is effected in consequence of corporate changes, bankruptcy or liquidation of the assignee.
- (3) Where subsequent assignment is allowed without the author's consent either by law or by contract, the initial and subsequent assignees are jointly liable to the author for his claims.

#### Nullity

##### Article 79

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

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

#### Formality

##### Article 80

- (1) All assignments of economic rights or other author's rights, and all authorizations must be in writing, unless otherwise provided by law.
- (2) In case of non-compliance with the formality, required in the foregoing paragraph, all controversial or unclear stipulations shall be interpreted in favour of the author.

#### Royalty and Remuneration

##### Article 81

- (1) Where royalty or remuneration was not determined, it shall be determined by taking into account the usual fees for a particular category of works, the scope and duration of exploitation, and other circumstances of the case.
- (2) Where the profit derived from the exploitation of the work is in manifest disproportion to the agreed upon or determined royalty or remuneration, the author may demand that the contract be revised, so that a more equitable share of the revenues is provided for him.
- (3) An author cannot waive the right mentioned in the foregoing paragraph.

Accounting  
Article 82

- (1) Where the royalty or remuneration is agreed to, or determined in proportion to the revenues derived from the exploitation of the work, the user of the work must keep the books, records or other documentation necessary to determine the amount of such revenues.
- (2) The user of the work shall allow the author to inspect the documentary evidence mentioned in the above paragraph, and shall send him adequate reports on the revenues, both at usual intervals and to the necessary extent.

Revocation of Economic Right  
Article 83

- (1) An author may revoke an assigned economic right, in case its exclusive holder exploits such right to insufficient extent or not at all, and the author's valid interests are considerably adversely affected thereby. Author cannot revoke the right, if the reasons for non-exploitation or insufficient exploitation originate preponderantly from his sphere.
- (2) The revocation mentioned in the foregoing paragraph cannot be effected before the expiration of two years from the time of assignment of the economic right to a work. In case of contributions to daily newspapers, this term shall be three months, and in case of other periodical publications, the term shall be one year.
- (3) An author may exercise his revocation, according to this Article, only after first giving the holder adequate additional time to comply with the demand for sufficient exploitation.
- (4) With the exercise of revocation, the economic right of the holder shall be extinguished.
- (5) Author cannot waive the right of revocation, as provided by this Article.
- (6) If equity so requires, the author must adequately indemnify the holder.

Authors' Collective Agreements  
Article 84

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

1. Lay down general rules for the use of copyright works;
2. Conclude tariff agreements.

Section 3  
SPECIAL PART OF COPYRIGHT CONTRACT LAW

Subsection 1  
PUBLISHING CONTRACT

Definition  
Article 85

- (1) By a publishing contract the author undertakes to transfer to the publisher the right of reproduction of his work in the form of printing, and the right to distribute the copies of the work, while the publisher undertakes to pay the author an agreed upon remuneration, and to reproduce and distribute the work.
- (2) A publishing contract with respect to a certain work, may also include the agreement on a club edition, pocket-book edition, periodical edition in instalments, the transfer of the right of translation, etc.

Rights of an Agent  
Article 86

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

Contents of the Contract  
Article 87

- (1) The publishing contract shall specify, in particular, the type of transfer of rights, the scope and duration of the transfer of rights, territorial limitations of rights, the time-limit within which the publisher is required to publish the work, and the amount of remuneration to be paid to the author.
- (2) If the royalties are fixed as a percentage of the retail price of the copies sold, the publishing contract must specify the minimum number of such copies of the first edition. Such provision is not necessary, if the contract provides for minimum royalties, which the publisher should pay to the author regardless of the actual number of copies sold.
- (3) If the royalties are set as a lump sum, the publishing contract must specify the total number of copies to be printed. If this number is not specified, and unless otherwise indicated by the purpose of the contract, standard terms, or general usage, the publisher may reproduce and distribute a maximum of 500 copies of the work.

Presumption of Exclusivity of Assignment  
Article 88

- (1) During the period of validity of the publishing contract, the author may not assign the right of reproduction and the right of distribution of the work in the same language to a third party, unless otherwise provided by contract.
- (2) The right of reproduction and distribution of newspaper articles may be assigned by the author simultaneously to several users, unless otherwise provided by contract.



Publisher's Priority Right  
Article 89

- (1) The publisher, who has acquired the right to publish the work in a book form has, among equal offerees, the priority right to publish the work in electronic form.
- (2) The priority right, mentioned in the foregoing paragraph, shall run for the period of three years from the agreed upon date of publication of the work. Publisher must give written notice within 30 days of the acceptance of author's written offer.

Improvements of the Work  
Article 90

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

Destruction of Work by *Force Majeure*  
Article 91

- (1) Where the work is destroyed by *force majeure* after its delivery to the publisher, the author is entitled to the remuneration that would have been due to him if the work had been published.
- (2) When a prepared edition is destroyed by *force majeure* before it was put into circulation, the publisher is entitled to prepare a new edition, and the author shall have the right to remuneration only for the destroyed edition.
- (3) When a prepared edition is partially destroyed by *force majeure* before it was put into circulation, the publisher is entitled to reproduce, without payment of remuneration to the author, only such number of copies as were destroyed.

Termination of Contract  
Article 92

- (1) The publishing contract shall terminate:
  1. If the author dies before the completion of the work;
  2. if the copies of all agreed upon editions are sold out;
  3. if the term of the contract has expired;
  4. in other cases provided for by law or contract.
- (2) The author may rescind the publishing contract if the publisher, after an edition is sold out, does not proceed to publish a new agreed upon edition within three years of the date when the author requested it, unless otherwise provided by contract.
- (3) An edition shall be considered sold out, within the meaning of the foregoing paragraphs, if the number of unsold copies is under 5 per cent of the total edition, and in any case, if the number is less than 100 copies.

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

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

#### Exception to the Formality Requirement Article 93

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

#### Destruction of Copies Article 94

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

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

#### Subsection 2 PERFORMANCE CONTRACT

##### Definition Article 95

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

##### Content of Contract Article 96

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

##### Obligations of the User Article 97

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

Rescission of Contract  
Article 98

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

Subsection 3  
CONTRACT FOR A WORK MADE FOR HIRE

Works Made for Hire  
Article 99

- (1) By a contract for a work made for hire, an author undertakes to create a certain work and deliver it to the person ordering it, while the latter undertakes to pay a fee to the author.
- (2) The person ordering the work may supervise the process and give instructions, unless he is thereby interfering with the author's freedom of scientific or artistic expression.
- (3) The author retains the copyright to a work for hire, with the exception of the right of distribution, unless otherwise provided by this Act or by contract.
- (4) To the contract for a work made for hire, provisions concerning works contract shall apply, unless otherwise provided by this Act.

Collective Work  
Article 100

- (1) Collective work is a work created on the initiative and under the organization of a natural person or a legal entity ordering it, by the collaboration of a large number of co-authors, which is published and used under the name of the person ordering it (e.g. encyclopedias, anthologies).
- (2) A special contract must be concluded for the purpose of creating a collective work. If the conditions mentioned in the foregoing paragraph are not met, such contract is null and void.
- (3) It shall be deemed that the economic rights and other rights of the authors to a collective work are exclusively and without limitations transferred to the person ordering the work, unless otherwise provided by contract.

Subsection 4  
EMPLOYMENT

Copyright Work Created in the Course of Employment  
Article 101

- (1) When copyright work is created by an employee in the execution of his duties or following the instructions given by his employer (copyright work created in the course of employment), it shall be deemed that the economic rights and other rights of the author to such work are exclusively assigned to the employer for the period of 10 years from the completion of the work, unless otherwise provided by contract.

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

Special Rights  
Article 102

Irrespective of the provisions of the foregoing Article:

1. An employee retains the exclusive right to use a work, created in the course of employment, as part of his collected works;
2. it shall be deemed that economic rights and other rights of the author to a database and to a collective work, are transferred exclusively and without limitations to the employer, unless otherwise provided by contract.

Chapter Four  
SPECIAL PROVISIONS FOR COPYRIGHT WORKS

Section 1  
AUDIOVISUAL WORKS

Definition  
Article 103

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

The Right of Audiovisual Adaptation  
Article 104

(1) The right of audiovisual adaptation is the exclusive right to transform or include a pre-existing work in an audiovisual work.

(2) It shall be deemed that, by making a contract of audiovisual adaptation, the author of a pre-existing work had transferred to the film producer, exclusively and without limitations, the right of transformation and inclusion of the pre-existing work in an audiovisual work, his economic rights and other rights of the author in this audiovisual work, its translations, its audiovisual transformations and to photographs made in connection with the production of the audiovisual work, unless otherwise provided by contract.

(3) Regardless of the provisions of the foregoing paragraph, the author of a pre-existing work shall retain:

1. The exclusive right to further transformation of the audiovisual work into another artistic form;
2. the exclusive right to a new audiovisual adaptation of the pre-existing work, however, only after the expiry of 10 years from the making of the contract mentioned in the above paragraph;

3. the right to claim equitable remuneration from the film producer for each rental of videograms of an audiovisual work.
- (4) Author of a pre-existing work cannot waive the rights mentioned in the foregoing paragraph.

Co-Authors of an Audiovisual Work  
Article 105

- (1) As co-authors of an audiovisual work shall be considered:
  1. Author of the adaptation,
  2. screenplay writer,
  3. director of photography,
  4. principal director.
- (2) When animation represents an essential element of an audiovisual work, principal animator shall be considered as co-author of such work.
- (3) When music represents an essential element of an audiovisual work, the composer of music, if composed specifically for the work, shall be considered as co-author of such work. If most of the music is accompanied by words or lyrics, the author thereof shall also be considered as co-author of an audiovisual work.

Authors of Contributions to Audiovisual Work  
Article 106

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

Film Production Contract  
Article 107

- (1) The relationships between the film producer and the authors of an audiovisual work and authors of contributions, as well as the relationships between the authors themselves, shall be regulated by contract of film production, which according to this Act, shall be made in writing.
- (2) It shall be deemed that co-authors transferred to the film producer, exclusively and without limitations, all their economic rights and other rights of the author to an audiovisual work, its translation, its audiovisual transformations, and photographs made in connection with this work, unless otherwise provided by contract.
- (3) It shall be deemed that authors of contributions transferred to the film producer, exclusively and without limitations, the right to use their contributions for the purpose of completion of the audiovisual work.

- (4) Irrespective of the provisions of the foregoing paragraphs:
1. The co-authors retain the exclusive right to further transformations of an audiovisual work into another artistic form;
  2. the authors of contributions retain the right to use separately their contributions to an audiovisual work, unless the rights of a film producer are prejudiced thereby;
  3. the co-authors retain the right to claim equitable remuneration from the film producer for each rental of videograms of an audiovisual work.
- (5) Co-authors and authors of contributions cannot waive the rights mentioned in the foregoing paragraph.

Remuneration  
Article 108

- (1) Co-authors of an audiovisual work are entitled to a remuneration separately for each assigned economic right or other right of the author.
- (2) Film producer must at least once a year send to the co-authors of an audiovisual work a report on the revenues, separately for each authorized form of exploitation of the work.

Completion of an Audiovisual Work  
Article 109

- (1) An audiovisual work shall be deemed completed when, according to the agreement between the principal director and the film producer, the first standard copy of a work, which is the subject matter of the contract, is finished.
- (2) The master of the copy mentioned in the above paragraph must not be destroyed.
- (3) Any changes to the copy of the audiovisual work, mentioned in paragraph (1) of this Article, shall be permissible only after previous agreement between the film producer and the principal director has been reached.
- (4) When any of the co-authors refuses to complete his contribution to the audiovisual work or if he is unable to do so owing to *force majeure*, he may not object to the use of his contribution already made for the purpose of completion of such work. Such author shall have respective rights as to the contribution he has already made.

Rescission of Contract  
Article 110

- (1) If a film producer does not complete the audiovisual work within five years from the making of the film production contract, or if he does not distribute the completed audiovisual work within one year from the time of its completion, the co-authors may demand that the contract be rescinded, unless different term was stipulated in the contract.
- (2) In the case mentioned in the foregoing paragraph, co-authors and authors of contributions retain the right to remuneration.

## Section 2 COMPUTER PROGRAMS

### Definition Article 111

- (1) Computer programs, within the meaning of this Act, are programs expressed in any form, including preparatory design materials for their creation.
- (2) Ideas and principles, which underlie any element of a computer program, including those which underlie its interfaces, are not protected.
- (3) Computer programs shall be protected if they are individual works, in the sense that they are their author's own intellectual creations.

### Employment and Works Made for Hire Article 112

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

### Rights of the Author Article 113

- (1) Unless otherwise provided in Articles 114 and 115 of this Act, the author of a computer program shall have the exclusive right, in particular:
  1. To make permanent or temporary reproductions of a computer program by any means and in any form, in part or in whole. Insofar as loading, displaying, running, transmission or storage of the computer program necessitate its reproduction, the author's permission shall be necessary for such acts;
  2. to make translations, adaptations, arrangements and any other alterations of a computer program and the reproduction of the results thereof, without prejudice to the rights of the person who alters the program;
  3. to distribute the original of the computer program or copies thereof in any form, including its rental.
- (2) The author may transfer the rights mentioned in the foregoing paragraph to third persons also with a licence agreement.

### Limitations of the Scope of Author's Rights Article 114

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

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

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

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

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

#### Decompilation Article 115

(1) Reproduction of the code and translation of its form, within the meaning of items 1 and 2 of Article 113 of this Act, shall not require the authorization of the author, where such reproduction or translation is indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, or with hardware, provided that the following conditions are met:

1. That these acts are performed by the licensee or by another person having a right to use a copy of the computer program, or on their behalf, by a person authorized to do so;
2. that the information necessary to achieve interoperability has not been previously readily available to the persons referred to in foregoing item;
3. that these acts are confined to those parts of the original program which are necessary to achieve interoperability.

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

1. Used for goals other than to achieve the interoperability of the independently created computer program;
2. given to others, except when necessary for the interoperability of the independently created computer program;
3. used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act that infringes copyright.

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

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



Special Measures of Protection  
Article 116

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

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

Application of Other Legal Provisions  
Article 117

The provisions of this Subsection shall be without prejudice to any other legal provisions such as those concerning patents, trademarks, unfair competition, trade secrets, protection of semiconductor products or the law of contract.

Chapter Five  
RELATED RIGHTS

Section 1  
RIGHTS OF PERFORMERS

Definition  
Article 118

- (1) Performers are actors, singers, musicians, dancers, and other persons who by acting, singing, interpreting, reciting or in some other way, artistically perform copyright works, or works of folklore.
- (2) As performers within the meaning of the above paragraph, shall be deemed directors of theatrical presentations, conductors of orchestras, choir directors, sound editors, and variety and circus artists.

Representative of a Group of Performers  
Article 119

- (1) Performers who collectively take part in a performance, such as members of an orchestra, choir, dancing troupe, theatrical group or other similar ensemble, shall designate one of their members to be their representative, with full power of attorney, for the grant of authorizations necessary for the performance.
- (2) To take effect, such power of attorney shall be in writing and shall require the majority consent of all members of the ensemble.
- (3) Provisions of the above two paragraphs shall not apply to conductors, soloists, and directors of theatrical performances.

Moral Rights of Performers  
Article 120

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

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

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

Economic Rights of Performers  
Article 121

Performers shall have the exclusive right:

1. To broadcast or otherwise publicly communicate their performance, except where such performance is in itself a broadcast, or if it is a broadcast from a fixation;
2. to fix their live performance;
3. to reproduce the fixation of their performance on phonograms or videograms;
4. to distribute the phonograms or videograms containing their performance;
5. to rent phonograms or videograms containing their performance.

The Right to Remuneration in Case of  
Public Communication of Phonogram  
Article 122

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

The Right to Remuneration  
Article 123

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

Presumption of Transfer  
Article 124

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

- (2) For each economic right which was transferred according to the foregoing paragraph, the performer shall retain the right to demand equitable remuneration from the film producer.
- (3) A performer cannot waive the right mentioned in the foregoing paragraph.

Completion of Audiovisual Work  
Article 125

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

Performance Given in the Course of Employment  
Article 126

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

Terms of Protection  
Article 127

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

Section 2  
RIGHTS OF PRODUCERS OF PHONOGRAMS

Producer of Phonogram  
Article 128

The producer of phonograms is a natural person or a legal entity that first fixes the sounds of a performance or other sounds.

Rights of the Producer of Phonograms  
Article 129

The producer of phonograms shall have the exclusive right :

1. To reproduce his phonograms;
2. to transform his phonograms;
3. to distribute his phonograms;
4. to rent his phonograms.

Right to Remuneration for Public Communication of Phonograms  
Article 130

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

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

Right to Remuneration  
Article 131

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

The Term of Protection  
Article 132

The rights of a producer of phonograms shall expire 50 years after the fixation. If a phonogram is lawfully published or lawfully communicated to the public within this period, the rights of the producer shall run for 50 years from the date of the first publication or first communication to the public, whichever occurred earlier.

Section 3  
RIGHTS OF FILM PRODUCERS

Film Producer  
Article 133

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

Rights of a Film Producer  
Article 134

A film producer has the exclusive right:

1. To reproduce his videograms;
2. to distribute his videograms;
3. to rent his videograms;
4. to present his videograms to the public.

Right to Remuneration  
Article 135

Film producer has a right to remuneration for reproduction for private or other internal use, according to Article 37(2) of this Act.

The Term of Protection  
Article 136

The rights of film producers shall run for 50 years from the time of the fixation. If a videogram is lawfully published or lawfully communicated to the public within this period, the rights of a film producer shall run for 50 years from the date of first publication or first communication to the public, whichever occurred earlier.

Section 4  
RIGHTS OF BROADCASTING ORGANIZATIONS

Rights of a Broadcasting Organization  
Article 137

A broadcasting organization shall have the exclusive right:

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

Term of Protection  
Article 138

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

Section 5  
RIGHTS OF PUBLISHERS

Right to Remuneration  
Article 139

- (1) Publishers have a right to remuneration for reproduction for private or other internal use, according to Article 37(3) of this Act.
- (2) The right mentioned in the foregoing paragraph shall run for 50 years from the lawful publication of the work.

Unpublished Works in Public Domain  
Article 140

- (1) A person who for the first time lawfully publishes a previously unpublished work in which the copyright has expired, shall enjoy the legal protection equivalent to that granted by economic rights and other rights of the authors under this Act.
- (2) The rights mentioned in the foregoing paragraph shall run for 25 years from the date of the first lawful publication of the work.

Critical and Scientific Editions of Works in Public Domain  
Article 141

- (1) A person who prepares the edition of a work in which the copyright has expired, which is the result of a scientific endeavour and which is materially different from known editions of this work, shall enjoy the legal protection equal to that granted by economic rights and other rights of the authors under this Act.
- (2) The rights mentioned in the foregoing paragraph shall run for 30 years from the date of the first lawful publication of the work.

Chapter Six  
ADMINISTRATION OF RIGHTS

Section 1  
GENERAL PROVISIONS

Author and Agent  
Article 142

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

Individual and Collective Administration of Rights  
Article 143

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

Scope of Agency  
Article 144

- (1) Administration of authors' rights through an agent includes:
1. representing authors in their legal transactions and relations with persons who use or commission their works, including collection of royalties or other remunerations;
  2. representing authors in legal proceedings before courts or other bodies, for the purpose of protecting their authors' rights.

(2) When an author administers his rights before a court or another body through an agent, who is a domestic legal entity, such agent is entitled to claim a fee for his services and reimbursement of expenses incurred in connection with these services against the adverse party, according to a schedule of fees adopted by the agent, provided the authorized representative of such agent fulfils the following conditions: that he is a citizen of the Republic of Slovenia; that he holds a bachelor of laws degree acquired in the Republic of Slovenia, or a law degree from a foreign university the equivalency of which is duly acknowledged in the Republic of Slovenia; that he has passed the state bar examination; that he has five years of working experience as a lawyer; that he actively masters the Slovene language. Agent's schedule of fees is adopted by the agent or an association of agents, and approved by the Minister of Justice.

#### Related Rights

##### Article 145

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

#### Section 2

#### COLLECTIVE ADMINISTRATION

##### Subject of Collective Administration

##### Article 146

Collective administration of authors' rights comprises:

1. Transfer of non-exclusive rights to the use of works;
2. collection and recovery of authors' royalties and remunerations for the use of authors' works;
3. distribution of collected royalties and remunerations among the authors;
4. enforcement of protection of authors' rights before courts and other bodies.

##### Instances of Collective Administration

##### Article 147

(1) Collective administration of authors' rights shall be allowed only with respect to already disclosed works, and provided it relates to:

1. Public communication of non-theatrical musical works and literary works (small rights);
2. transfer for valuable consideration of ownership of originals of works of fine arts (*droit de suite*);
3. public lending of originals or copies of works, with the exception of computer programs and databases;
4. reproduction of works for private or other internal use;
5. cable retransmission of works, except in the case of broadcaster's own broadcasts, irrespective whether their own rights are involved, or whether the right were transferred to them by other right holders;

6. reproduction of musical and literary works on phonograms and videograms (mechanical rights);
  7. rental of phonograms and videograms;
  8. reproduction of works in readers and text books for the purpose of teaching;
  9. reprinting of articles on current topics in daily or periodical publications;
  10. reproduction of works of fine art, photographs, plans and drawings in daily and periodical publications;
  11. reprinting of parts of works or short literary works in daily or periodical publications;
  12. reproduction and public communication of works in commercials, lasting no more than 60 seconds;
  13. reproduction of works in generally accessible places for commercial purposes;
- (2) Rights described in items 1 to 5 of the foregoing paragraph can be administered only collectively.

Collecting Societies  
Article 148

- (1) In the collective administration of authors' rights may be engaged only organizations of authors, established specifically for this purpose, and having the permission of the Slovene Intellectual Property Office (Office), to administer such rights.
- (2) Organizations of authors for the collective administration of authors' rights mentioned in the above paragraph (collecting societies), shall be non-profit organizations, and shall be engaged in collective administration of authors' rights as their sole purpose.
- (3) Collecting societies are governed by members, according to the statutes adopted by these societies.
- (4) Collecting society may entrust the administrative work in connection with the collective administration of rights to another collecting society or to a corporation.

Conditions for Issuance of Permission  
Article 149

- (1) The Office grants a permission to the collecting society if following conditions are fulfilled:
1. that it has its seat in the Republic of Slovenia;
  2. that it is open to all right-holders;
  3. that its statute conforms to the provisions of this Act;
  4. that it is capable of effective and economical administration of rights on the whole territory of the state.



(2) In determining whether the conditions for the effective enforcement of authors' rights, laid down under item 4 of the foregoing paragraph are fulfilled by a collecting society, the Office shall consider in particular the following: the number of authors who have undertaken to entrust the collecting society with the administration of their rights, the extent of the exploitation of works or the volume of potential users of such works, means and ways whereby the collecting society proposes to achieve its aims, and its capability to administer the rights abroad.

Statute  
Article 150

A statute of a collecting society shall contain the following provisions in particular:

1. The name of the society, which may not be identical or confusingly similar to that of another collecting society;
2. the objective and purpose of the society, and a type of rights it administers;
3. the conditions governing the acquisition and loss of membership, with the provision that the number of its members must not be less than 10;
4. categories of right holders (authors of original works, authors of adaptations, authors of translations, legal heirs, publishers, employers, etc.), and categories of membership (full, affiliated, co-opted, honorary, associate, etc.), for the purpose of participation in the management of the society;
5. the rights of members and the voting system with respect to various categories of membership;
6. the duties of members and the disciplinary regulations and measures;
7. the governing and representative organs of the collecting society and the competence of each of them, as well as provisions for the constitution, convening, and operation of such organs;
8. the procedures for the election and removal of administrators;
9. the fundamental principles for the distribution of sums collected among the beneficiaries;
10. the system of supervision of the economic and financial administration of the collecting society;
11. the manner of disposal of the assets of the collecting society in the event of its dissolution.

Permission of the Office  
Article 151

(1) The Office grants permission to a collecting society that best meets the requirements of a public tender offer, which must be published in the Official Gazette of the Republic of Slovenia.

(2) Collective administration of rights referred to in Article 147 of this Act, with respect to the same category of works, can generally be entrusted to one collecting society only.

(3) The Office grants its permission in the form of an administrative order. An appeal can be taken from such administrative order to the Government of the Republic of Slovenia.

(4) Final decision referred to in the foregoing paragraph shall be published in the Official Gazette of the Republic of Slovenia.

#### Revocation of Permission Article 152

(1) The Office can revoke the permission if circumstances occur that would have been a sufficient cause for the initial refusal of permission, or if the collecting society seriously or repeatedly violates the provisions of this Act.

(2) In such case, prior notice in writing shall be given to the collecting society by the Office, who shall set a time-limit of at least 30 days for the collecting society to rectify the situation and eliminate the violations.

(3) Revocation of permission shall take effect 30 days after its publication in the Official Gazette of the Republic of Slovenia.

#### General Tariffs and Tariff Agreements Article 153

(1) Collecting society adopts its general tariffs for the exploitation of authors' works.

(2) Collecting society submits its general tariffs to the Office for approval. Approved tariffs shall be published in the Official Gazette of the Republic of Slovenia.

(3) With general tariff agreements between a collecting society and users or associations of users, special tariffs may be provided for.

#### Rules for Distribution Article 154

(1) Collecting society adopts the rules for the distribution of collected royalties and remunerations that should conform with the fundamental principles set forth in the statute, and should exclude any possibility of arbitrariness.

(2) The system of distribution should take into account the principle of promotion and support of the arts that are important for the development of culture.

(3) To cover the costs of the operation of the collective society, no more than 30 per cent of the collected royalties and remunerations may be set aside.

#### Special Case of Distribution Article 155

(1) Of the remuneration collected according to Article 37(2) of this Act, the authors shall receive 40 per cent, the performers shall receive 30 per cent, and the producers of phonograms or film producers shall receive 30 per cent.

- (2) Of the remuneration collected according to Article 37(3) of this Act, the authors and the publishers shall receive 50 per cent each.

Administration of Rights  
Article 156

- (1) Collecting society administers the authors' rights according to the agreement concluded with the author, which must stipulate in particular: author's power of attorney, category of works and rights that shall be administered, and the duration of the contract which shall not exceed the period of five years. After the expiration of this term, the contract can be renewed every five years.
- (2) During the period when the administration of rights is transferred to a collecting society, either by operation of law or by contract, the author cannot personally administer those rights.
- (3) The rights described in items 1 to 5 of Article 147(1) of this Act may be administered by the authorized collecting society even in the absence of any contract with the author.

Capacity to Sue  
Article 157

Collecting society may take the necessary proceedings for the enforcement of authors' rights before courts and other bodies in its own name, but must render account to the author regarding the rights so enforced.

Duty to Administer Rights  
Article 158

Collecting society shall not refuse to administer the rights of any author who so requests, provided such author is a citizen of the Republic of Slovenia or is domiciled in the Republic of Slovenia.

Duty to Furnish Information and Obligation to Contract  
Article 159

- (1) Collecting society shall be required, upon request of any person, to provide information as to whether it administers particular rights with respect to a copyright work, and under what conditions.
- (2) Collecting society shall be required, upon request of a user or an association of users, to enter into a contract for the transfer of non-exclusive rights which the society administers, according to its general contracting terms.
- (3) If the parties fail to reach an agreement with respect to the amount of remuneration, it shall be deemed that the right has been transferred, if such remuneration as is charged by the collecting society according to its schedule of fees, has been deposited to the account of the collecting society or on a court deposit, by the person requesting it.

Duty of Users to Provide Information  
Article 160

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

(2) On application of the author, or of the collecting society, the competent agency for internal affairs may prohibit the public performance, presentation or other use of a work, in case the organizer failed to previously acquire the rights mentioned in the above paragraph.

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

(4) Users of works, who may exploit such works under this Act without the authorization, shall submit to the competent collecting society the information relating to such exploitation, once a month.

(5) Owners of the originals of works of fine art shall submit to the competent collecting society the information regarding the identity of new owners and the sale price of sold originals, within 30 days after the sale.

#### Condition for Doing Business

##### Article 161

When doing of a certain business is conditioned upon prior acquisition of rights mentioned in items 1 to 5 of Article 147 (1) of this Act, the proper authority shall refuse to grant its permission for doing such business, if the person doing it, did not conclude a contract with the competent collecting society.

#### Supervision by Members

##### Article 162

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

(2) At least 10 full members of a collecting society may demand that one or more independent experts inspect the operation of the society.

#### Supervision by the Office

##### Article 163

(1) The exercise of collective administration of rights in compliance with the provisions of this Act, is supervised by the Office.

(2) The Office may demand information or data from the collecting society, order inspections and audits, and appoint his representative for the purpose of attending the meetings of boards or bodies of collecting society, with the right to speak but not to vote.

(3) Collecting societies shall notify the Office of the appointment and termination of appointment of their administrators, of contracts entered into with associations of users and those concluded with foreign organizations of the same type, of the adoption of statutes, rules, general tariffs and any amendments thereto, etc.

(4) Amendments to the schedules of fees and statutes, must have prior approval of the Office. If the Office does not give its approval within two months after the receipt of a properly filed application, it shall be deemed that the approval is granted.

Chapter Seven  
PROTECTION OF RIGHTS

Section 1  
GENERAL PROVISIONS

Persons Entitled to Protection  
Article 164

- (1) The person whose rights under this Act were infringed (the right holder), may demand the protection of his rights and claim restitution from the infringer (the infringer), according to the rules on damages, unless otherwise provided by this Act.
- (2) The same protection may be claimed by a right holder, when there is apparent danger that an infringement of the rights under this Act will occur.

Joinder of Parties  
Article 165

- (1) When there are more right holders of a right granted by this Act, each of them may claim the protection of this right in its entirety.
- (2) When there are more infringers of a right granted by this Act, each of them is liable for total damages.

Special Cases of Infringement  
Article 166

It shall be deemed that a person infringes the exclusive rights granted by this Act, when it manufactures, imports, possesses for commercial purposes, distributes, rents, or allows others to use:

1. Any kind of equipment or device, the sole or prevalent purpose of which is to facilitate the unauthorized removal or circumvention of any technical device or a computer program which is applied as a lawful protection against unauthorized use;
2. any kind of equipment or device, that make possible the reception of encrypted program-carrying signals by the unauthorized public.

Section 2  
JUDICIAL PROTECTION

Claims  
Article 167

- (1) When the exclusive rights granted by this Act were infringed, the right holder may claim:
  1. That the infringer is prohibited from doing certain preparatory act, the infringement itself, and future infringements;
  2. that the infringer rectifies the situation caused by the infringement;

3. that the unlawfully made copies of the work and their packaging, of a performance, or of other objects of protection under this Act, be destroyed or altered;
4. that the stencils, negatives, plates, molds, or other means, which were instrumental to the infringement, be destroyed or altered;
5. that the equipment or devices, the sole or prevalent purpose of which is to make the infringements mentioned in this Act possible, and which are owned by the infringer, be destroyed or altered;
6. that the judgement be published in public media at the infringer's expense, to the extent and in such manner, as deemed appropriate by the court.

(2) Provisions of items 2 and 3 of the foregoing paragraph shall not apply to architectural buildings, unless the destruction or alteration of a building is dictated by the circumstances of the case.

(3) Instead of claims mentioned in items 3 and 4 of paragraph (1) of this Article, the right holder may claim that the infringer or owner surrenders to him the copies or means enumerated therein, against the reimbursement of the costs of their production.

#### Punitive Damages Article 168

(1) If an economic right or other right of the author, recognized by this Act, was infringed intentionally or by gross negligence, the right holder may claim the payment of agreed upon or customary royalty or remuneration for such use, increased by up to 200 per cent, irrespective of whether he suffered actual pecuniary loss or injury because of such infringement.

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

(3) In case that the actual loss or injury is in excess of the amount of damages mentioned in the foregoing paragraph, the right holder has a right to claim the difference to full actual damages.

#### Monetary Satisfaction for Non-Material Damage Article 169

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

#### Provisional Measures Article 170

(1) If the right holder shows probable grounds for belief that his exclusive right under this Act is being infringed, the court may, on application of the right holder, order provisional measures to secure his non-monetary claims, such as:

1. Seizure, exclusion from circulation, and taking into custody of copies, means, equipment, and relevant documents;
  2. interdiction of imminent infringements or the cessation of infringements already commenced;
  3. other similar measures.
- (2) If there is a demonstrable risk that the provisional measures mentioned in the above paragraph may not be effective at a later time, the court may order and execute such measures without prior notification and hearing of the other party. (*Inaudita altera parte*)
- (3) The proceedings for the adoption of provisional measures are summary.
- (4) The provisions of the Code of Execution Procedure shall apply to the proceedings for the adoption of provisional measures, unless otherwise provided by this Act.

#### Preservation of Evidence Article 171

- (1) If the right holder shows probable grounds for belief that his exclusive right under this Act is being infringed, and that there is a demonstrable risk that evidence of such infringement will be destroyed or that it will be impossible to obtain such evidence at a later time, the court may, on application of the right holder, take such evidence without prior notification and hearing of the other party. (*Inaudita altera parte*)
- (2) The taking of evidence, according to the foregoing paragraph may include the inspection (of places, business records, inventory, databases, computer memory units, or other things etc.), examination and seizure of documents, examination of witnesses, and the appointment and examination of experts.
- (3) Court order with which the application for the preservation of evidence was granted, shall be served on the adverse party at the time when the actual taking of evidence begins or, when this is impossible, as soon as the service becomes possible. No appeal can be taken from such order.
- (4) The proceedings for the securing of evidence are summary.
- (5) The provisions of the Code of Civil Procedure shall apply to the proceedings for the preservation of evidence, unless otherwise provided by this Act.

#### Section 3 MEASURES FOR THE ENFORCEMENT OF PROTECTION

##### Duty to Provide Information Article 172

- (1) A right holder may demand that persons, who are in any way connected with the infringement of rights recognized by this Act (manufacturers, printers, importers, suppliers, or possessors of copies or means with which the right was infringed), provide information and produce documents in connection with the infringement, immediately upon demand.
- (2) The duty mentioned in the foregoing paragraph shall not apply, when conditions exist that would allow a witness in any civil proceedings to refuse to testify or to answer to a particular question.

(3) If the persons mentioned in the paragraph (1) of this Article fail to give the required information or produce the documents in their possession, they are liable for damages that may be caused by their failure to comply.

#### Border Measures Article 173

(1) If the right holder shows probable ground for belief that his exclusive right under this Act is likely to be infringed by the importation of certain goods, the custom authorities may, on application of the right holder, order :

1. That the right holder or his agent may inspect such goods;
2. that such goods be seized, their release into free circulation be suspended, and the goods be detained awaiting final decision by competent authority.

(2) In the application mentioned in the foregoing paragraph, the right holder shall be required to provide detailed description of the goods, as well as adequate evidence of his exclusive rights and their probable infringement. The customs authorities may require the right holder to post security to protect the defendant against possible damage that may be caused by such measures.

(3) Customs authorities must promptly notify the importer and the of the adopted measures. Customs authorities shall revoke the adopted measures if the right holder does not file a suit or initiate some other proceedings, leading to a decision on the merits of the case, within seven days.

#### Register Article 174

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

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

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

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

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

#### Symbols and Notices of Reserved Rights Article 175

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



- (2) Holders of exclusive rights to phonograms under this Act, shall have the right to put a notice on the original or copies of their published phonograms or on their containers, consisting of the symbol ©, accompanied by their name or firm name, place and year date of the first publication.
- (3) Until proven otherwise, it shall be presumed that the exclusive rights in works or phonograms, that bear notices mentioned in this Article exist and belong to the person designated therein.
- (4) Provisions of this Article do not affect in any way the existence or protection of rights under this Act.

## Chapter Eight RELATIONS WITH FOREIGN ELEMENTS

### General Provision Article 176

- (1) The provisions of this Act shall protect the authors and holders of related rights who are citizens of the Republic of Slovenia or have their corporate seat in the Republic of Slovenia.
- (2) Foreign natural persons or legal entities (foreigners) shall enjoy the same protection as persons mentioned in the foregoing paragraph, if international convention or this Act so provide, or in case that factual reciprocity exists.
- (3) Regardless of the provisions of this Chapter, foreigners shall enjoy the protection according to this Act:
1. With respect to moral rights - in any case;
  2. with respect to droit de suite and the right to remuneration for private and other internal reproduction - only if reciprocity exists.
- (4) Reciprocity must be proved by the person basing his claims on it.

### Authors Article 177

- (1) The protection under this Act shall enjoy the authors:
1. Who are domiciled in the Republic of Slovenia;
  2. with respect to their works published for the first time in the Republic of Slovenia or within 30 days of having been published in another country;
  3. with respect to audiovisual works whose producer has his seat or domicile in the Republic of Slovenia;
  4. with respect to works of architecture and fine arts, which are as immovables or as an integral part of immovable property located on the territory of the Republic of Slovenia;
- (2) If the work was created by more authors, the provision of this Act shall protect all of them if at least one author meets one of the conditions enumerated in paragraph (1).

Performers  
Article 178

- (1) The protection under this Act shall enjoy the performers:
1. Who are domiciled in the Republic of Slovenia;
  2. whose performances take place on the territory of the Republic of Slovenia;
  3. whose performances are fixed on phonograms that are protected under this Act;
  4. whose performances are incorporated, without having been fixed on phonograms, in radio broadcasts that are protected under this Act.
- (2) If more performers take part in a performance, the provisions of this Act shall protect all of them if at least one performer is a citizen of the Republic of Slovenia or is domiciled in the Republic of Slovenia.

Producers of Phonograms, Film Producers, and Publishers  
Article 179

- (1) The protection under this Act shall enjoy the producers of phonograms and film producers if their phonogram or videogram was first fixed in the Republic of Slovenia.
- (2) The provisions of this Act shall also protect the publishers with respect to their related rights if their edition was first published in the Republic of Slovenia or within 30 days of having been published in another country.

Broadcasting Organizations  
Article 180

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

Comparison of Terms of Protection  
Article 181

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

Communication to the Public by Satellite  
Article 182

- (1) The protection under this Act shall enjoy the authors and holders of related rights, whose works, performances, phonograms, films or broadcasts are communicated to the public by satellite, when under the control and responsibility of a broadcasting organization, programme-carrying signals intended for reception by the public are sent from the territory of the Republic of Slovenia, in an uninterrupted chain of communication, to a satellite and back to Earth.

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

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

#### Stateless Persons and Refugees

##### Article 183

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

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

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

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

#### Chapter Nine

##### PENAL PROVISIONS

##### Article 184

(1) By a fine of no less than SLT 400.000 shall be punishable for a misdemeanour any legal entity or any independent individual entrepreneur who:

1. Without the transfer of proper economic right, when such transfer is required according to this Act, reproduces, distributes, rents, publicly performs, publicly transmits, publicly communicates, broadcasts, rebroadcasts, secondary broadcasts, transforms or audiovisually adapts a work or a copy of it (Articles 21 and 22);
2. without the transfer of proper exclusive right of a performer, producer of phonograms, or film producer, when such transfer is required according to this Act, reproduces, distributes, or rents a fixation of a performance or a phonogram or videogram (Articles 121, 129, 134);
3. without the transfer of proper exclusive right of a broadcasting organization, when such transfer is required according to this Act, reproduces or distributes a fixation of a broadcast (Article 137);
4. manufactures, imports, possesses for economic purposes, distributes, rents or allows another use of any kind of equipment or device, the sole or primary purpose of which is to facilitate the unauthorized removal or circumvention of any technical device or

a computer program which is applied as a lawful protection against unauthorized use (Article 166, item 1);

5. manufactures, imports, possesses for economic purposes, distributes, rents or allows another use of any kind of equipment or device, that make possible the reception of encrypted programme- carrying signals by the unauthorized public (Article 166, item 2).
- (2) By a fine of no less than SLT 80.000 shall be punishable an institutional legal representative of a legal entity who commits a misdemeanour mentioned in the foregoing paragraph.
- (3) By a fine of no less than SLT 80.000 shall be punishable an individual who commits a misdemeanour mentioned under paragraph (1) of this Article.
- (4) Copies of a work mentioned under item 1, fixations of performance, phonograms or videograms mentioned under item 2, fixations of broadcasts mentioned under item 3, and devices mentioned under items 4 and 5 of paragraph (1) of this Article, shall be confiscated.

#### Article 185

- (1) By a fine of no less than SLT 200.000 shall be punishable for a misdemeanour any legal entity or any independent individual entrepreneur:
1. That does not submit to the competent collecting society, on demand and within the prescribed time-limit, information about the types and number of sold or imported devices for sound or visual fixation, photocopying devices, blank carriers, as well as information about sold photocopies which is necessary for the calculation of the remuneration due (Article 38(3));
  2. that does not submit to the competent collecting society, within the prescribed time-limit, the list of works used (Article 160(1), (3), and (4));
  3. that does not submit to the competent collecting society, within the prescribed time-limit, the information regarding the sold originals, the vendor and the selling price of originals of works of fine art (Article 160(5));

- (2) By a fine of no less than SLT 60.000 shall be punishable an institutional legal representative of a legal entity who commits a misdemeanour mentioned in the foregoing paragraph.
- (3) By a fine of no less than SLT 60.000 shall be punishable an individual who commits a misdemeanour mentioned under paragraph (1) of this Article.

#### Article 186

- (1) Control over the implementation of provisions of this Act contained in items 1 to 5 of Article 184(1) shall be the competence of the market inspection.
- (2) When an authorized agent of market inspection, while engaged in controlling activity, has sufficient grounds to suspect that a misdemeanour was committed, he temporarily seizes the goods which were used or intended for the commission of a misdemeanour, or were created by such misdemeanour

- (3) The authorized agent of market inspection shall immediately submit the temporarily seized objects, along with the writ for the initiation of a misdemeanour proceedings, to the authority competent to proceed in misdemeanour cases.

## Chapter Ten TRANSITIONAL AND FINAL PROVISIONS

### Article 187

- (1) Provisions of this Act concerning the remuneration to be paid for personal or other internal use (Articles 37 to 39), shall take effect two years after the date of the enactment of this Act.
- (2) The Government shall issue the regulations, mentioned in Article 39(1) of this Act, within one year after the date of the enactment of this Act.

### Article 188

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

### Article 189

- (1) Organizations of authors that have collectively administered the rights according to Articles 91 and 93 of the Copyright Act (Official Gazette of SFRY, No. 19/78, 24/86, 21/90), before the enactment of this Act, may continue to do so without the permission of the Office, until the Office issues a permission for the collective administration of these same rights to a collecting society that meets the conditions required by this Act.
- (2) Tariffs adopted by the organizations of authors before the enactment of this Act according to the provision of Article 91(a) of the Copyright Act, shall apply until the adoption of general or special tariffs according to Article 153 of this Act.
- (3) If appropriate collecting societies are not formed within one year after the enactment of this Act, the Office may issue a temporary authorization to a legal person that does not meet the conditions set forth in Article 149 of this Act, to administer collectively certain rights. Such authorization shall specify the time-limit and conditions for such temporary administration of rights.

### Article 190

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

### Article 191

Provisions of this Act concerning computer programs and databases shall apply to computer programs and databases created before the date on which this Act becomes effective, unless such application shall be prejudicial to contracts entered into or rights vested to that date.

Article 192

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

Article 193

(1) This Act applies to all works and performances that were enjoying protection according to the Copyright Act (Official Gazette of the SFRY, No. 19/78, 24/86, 21/90), at the time of its enactment.

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

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

Article 194

(1) On the date this Act enters into force, the Copyright Act (Official Gazette of the SFRY, No. 19/78, 24/86, 21/90), shall cease to apply.

(2) On the date this Act enters into force, Self-Managerial Agreement on rights, obligations and responsibilities of publishing organization and authors in their contractual relations (Official Gazette of the SRS, No. 7/88), is repealed.

Article 195

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