

On the basis of Article IV 4a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the session of the House of Peoples held on 21 March 2002 and at the session of the House of Representatives held on 12 March 2002 adopted

## **LAW ON COPYRIGHT AND RELATED RIGHTS IN BOSNIA AND HERZEGOVINA**

### **Chapter I - GENERAL PROVISIONS**

#### **Article 1.**

1. This Law shall regulate:
  - a) The work-related rights of authors in the domain of literature, science and art and their implementation (hereinafter: copyright);
  - b) The rights of performers, of manufacturers of phonograms, broadcasting institutions - show producers and their implementation, – (hereinafter: related rights);
  - c) The rights of *video-gram* [sic] manufacturers
  - d) The rights of database manufacturers; and
  - e) The protection of copyright and related rights.

#### **Article 2.**

1. Publishing, in terms of this Law, shall mean that the author's work or the subject matter to copyright and related rights has been made available to the public.
2. Publication, in terms of this Law, shall mean offering to the public or putting into circulation, with the consent of the author, of a sufficient number of produced copies of the author's work or the subject matter to related rights.

#### **Article 3.**

The terms "public" or "publicity", in terms of this Law, shall mean availability of works of an unspecified number of people (individuals) with no family or other ties who have free access to the works through its public presentation.

#### **Article 4.**

The protection of related rights in terms of this Law shall in no way affect the rights of authors whose works shall be protected by this Law.

#### **Article 5.**

1. The authors' works of citizens of Bosnia and Herzegovina or of persons who are not citizens of Bosnia and Herzegovina but have place of residence in Bosnia and Herzegovina, published in Bosnia and Herzegovina or abroad, as well as the authors' works which have not been published, shall be protected pursuant to this Law.

2. The unpublished authors' works of foreign citizens and stateless persons to be published for the first time in Bosnia and Herzegovina or within 30 days from the day they have been published in any other state shall enjoy, pursuant to this Law, the same protection as the copyright works of citizens of Bosnia and Herzegovina.
3. In terms of this Law there shall be also protected:
  - a) cinematography works whose producers have seat or residence in Bosnia and Herzegovina, and
  - b) architectural or other artistic works located in the territory of Bosnia and Herzegovina as real estate or as integral part thereof.
4. The authors' works of foreign citizens, which have not been for the first time or simultaneously published in Bosnia and Herzegovina, shall enjoy, pursuant to this Law, the protection within the framework of the obligations, which Bosnia and Herzegovina has assumed under international treaties or on the basis of *de facto* reciprocity.
5. If the author's work was created by various authors, the protection according to this Law will be extended to all co-authors, if at least one of them fulfils conditions referred to in Paragraphs 1, 2 and 3.

## **Chapter II - THE AUTHOR'S WORK AND THE AUTHOR**

### **Article 6.**

1. Unless otherwise provided for in this Law, an individual intellectual creation in the literary, scientific or artistic field or in any other field of creation, regardless of the kind, method or form of expression thereof, shall be considered an author's work.
2. The following, in particular, shall be considered authors' works:
  - a) written works (books, brochures, literary texts, articles and other writings and computer programmes);
  - b) spoken works (lectures, speeches and other works of the same nature);
  - c) dramatic and dramatically-musical works;
  - d) choreographic works and works of pantomime;
  - e) musical works, with or without words;
  - f) cinematography works and works created by a process analogous to cinematography creation;
  - g) works of painting, sculpture, architecture and graphic art, regardless of the material of which they are made, as well as other works of fine art;
  - h) works of all branches of applied art and industrial designing;
  - i) photographic works and works produced by a process analogous to photography;
  - j) cartographic works (geographical maps, topographical maps and the like);
  - k) plans, sketches and plastic works related to geography, topography, architecture and any other scientific or artistic field.

### **Article 7.**

1. Collections of authors' works such as encyclopaedias, compilations, anthologies, collections of music, collections of photography and the like, as well as databases either machine readable or any other kind, which, by virtue of the selection and arrangement of their contents, constitute individual intellectual creations shall be considered the authors' work.
2. Collections of folk literary and art works, documents, court decisions or collections of other similar contents which by itself do not constitute protected authors' works, shall be considered authors' works if those collections by virtue of the selection, coordination or arrangement of their contents, constitute individual intellectual creations.

3. Provision of Paragraph 1 of this Article shall not affect the rights of authors of individual works assembled in collections.

#### **Article 8.**

1. Translations, adaptations, musical arrangements and other alterations of original authors' works, which constitute individual intellectual creations, shall be protected as original works.
2. The provision of Paragraph 1 of this Article shall not affect the rights of the author of the original work.

#### **Article 9.**

The use of folk literature and art creations for the purpose of a literary, artistic or scientific arrangement shall be free.

#### **Article 10.**

1. Copyright protection shall not be afforded to:
  - a) ideas, plans, procedures, working methods, mathematical operations, principles, discoveries;
  - b) official texts from legislative, administrative and judicial areas.
  - c) professional reports, referrals, official acts or works like these made during the performance of working obligations in economic or other activity.
2. Translations of the texts from Paragraph 1. b) shall be protected by copyright protection, unless they have been published as official texts.

#### **Article 11.**

1. Title of an author's work, which constitutes an individual intellectual creation, shall be protected by this Law as well as the work itself.
2. Notwithstanding provision of Paragraph 1 it shall be proscribed to give the authors' work a title, which has already been used for the authors' work of the same or similar kind, if such a title is likely to cause confusion regarding the author of the work.

### **Chapter III - AUTHOR AND RIGHTS OF AUTHOR**

#### **Article 12.**

1. The author of a work is the natural person who created the work.
2. The author shall be entitled to copyright as from the moment of creation of author's work, regardless of fulfilment of any formalities.

#### **Article 13.**

The person whose full name or pseudonym appears on the work shall be regarded as the author, unless proved to the contrary.

#### **Article 14.**

1. The author of a collection of authors' works is the person who compiled the collection.

2. The author of a translation, as well as the author of a work, which has been adapted, musically arranged, or altered in another way, is the person who translated, adapted or musically arranged such work or who altered it in another way.
3. The person who created a literary, artistic or scientific work by using folk literature or art creations is the author of the work thus created.

#### **Article 15.**

1. Where an author's work created jointly by two or more persons constitutes an indivisible entity, copyright in such a work shall belong indivisibly to all co-authors who contributed to its creation.
2. Co-authors' shares shall be determined in proportion to the extent of their individual contributions to the creation of the work, except where they are determined otherwise by agreement between them.
3. The decision on the use of the co-authors' work shall belong jointly to all the co-authors. An individual co-author may not deny his/her consent contrary to the principles of consciousness and honesty.
4. Where an author's work created jointly by two or more persons does not constitute an indivisible entity, each co-author shall be entitled to copyright on his/her contribution.

#### **Article 16.**

Where two or more authors combine their works for the purpose of joint exploitation, their rights shall be defined in accordance with the agreement, or else the provisions of Article 15. shall apply.

#### **Article 17.**

1. Copyright on anonymous works, as well as on works published under a pseudonym, the author of which is unknown, shall be exercised by the publisher. If the publisher is not indicated on the work, the person who published the work shall be entitled to exercise copyrights.
2. Copyright on unpublished works the author of which is unknown shall be exercised by the corresponding association of authors.
3. The provisions of Paragraphs 1 and 2 shall cease to apply as of the moment the identity of the author is established.

### **Chapter IV - SPECIAL PROVISIONS CONCERNING THE AUTHOR'S WORK AND THE AUTHOR**

#### **Section 1. -Cinematography Work**

#### **Article 18.**

1. The author of the scenario, the director and the director of photography, as well as the principal cartoonist in the case of an animated cartoon film, shall be considered the authors of the completed cinematography work.
2. If music is an essential element of a cinematography work and it has been composed for that work, the composer of the music for that work shall also be considered the co-author of such cinematography work.
3. The composer of film music who is not considered the author of the cinematography work in terms of Paragraph 2., the designer of the sets, the costume designer and the make-up artist shall have copyright on their contributions and may transfer them to the maker of the cinematography work only by a contract.
4. The principal cartoonist and the principal animator shall be considered the co-authors of the cinematography work in case of a cartoon or animated film, or in case when cartoon or animation are an essential element of a cinematography work.

#### **Article 19.**

Authors of cinematography work have an exclusive right to record their works (filming right), to reproduce them, put in trade off, show them publicly, broadcast, inform publicity about it, do titling, translate (synchronisation) and adapt.

#### **Article 20.**

1. The relationship between the producer of the cinematography work and the authors thereof, as well as the mutual relationships between the authors of the cinematography work, shall be governed by a contract made in writing.
2. The contract referred to in Paragraph 1 shall, *inter alia*, regulate the rights transferred to the producer and the remuneration due to the authors of the cinematography work.
3. The rights not transferred to the producer by a contract shall be reserved to the authors of the cinematography work.
4. Legal or natural persons who produce a cinematography work, whether on the basis of a contract or on own initiative, shall be considered the producer of the cinematography work in terms of this Law.

#### **Article 21.**

Unless otherwise agreed, the author of the scenario and the composer may publish or separately utilize in other ways the contributions they have made to the cinematography work, provided that this does not violate the rights transferred to the producers of the cinematography work.

#### **Article 22.**

The cinematography work shall be regarded as completed when the first master copy of the film has been produced in compliance with the agreement between the authors and the producer of the cinematography work.

#### **Article 23.**

1. If the producer does not complete the cinematography work within three years of the date of concluding the contract pertaining to producing such a work, or if s/he does not distribute the completed cinematography work within one year of the date of the completion thereof, the authors of the cinematography work, while reserving their right to compensation, may request termination of the contract unless another time limit is agreed upon.
2. If any of the authors refuses to complete his/her contribution to the cinematography work or if, by *force majeure*, s/he is unable to do so, s/he may not object to the use, for the purpose of completing the cinematography work, of the contribution s/he has already made. Such an author shall have the corresponding copyright in the contribution already made to the creation of the cinematography work.

### **Section 2. -Copyright Work Created in the Course of Employment, Pursuant to a Commission and Collective Author's Work**

#### **Article 24.**

If a copyright work is created by an employee in the execution of his/her duties or upon the instructions given him by his/her employer, the rights to utilisation shall be deemed to have been transferred to the employer for a 5- year period as of the completion of the work, unless otherwise provided in the contract.

#### **Article 25**

1. When publishing his/her collected works the author of the work created in the course of employment may use that work without employer's consent.

2. Upon expiration of the 5-year period as of the completion of the work created in the course of employment, the exploitation rights of the work shall belong exclusively to the author.

#### **Article 26**

Notwithstanding the provisions of Article 25, the owner of the author's property right holder on a computer programme and a database created in the course of employment shall be the employer.

#### **Article 27**

1. Unless otherwise specified in the agreement, all copyrights on works created pursuant to service contract shall belong to the author who created the work.
2. Explicit from provisions of Paragraph 1, the author's property right on a computer programme created pursuant to service contract shall belong to the person who ordered it, unless otherwise specified in the said Contract.

#### **Article 28**

1. A work created upon the initiative and under the direction of a natural person or legal entity, in creation of which a large number of persons has participated, and which is used under the name of the person who commissioned it (such as an encyclopaedia, compilations, computer programme, database) shall be considered a collective authors' work.
2. Co-authors shall be holder of joint copyright on co-author's work unless otherwise provided in this Law or the Contract, which regulates their mutual relations.
  - a) The realisation of co-author's rights and transfer of the right shall require approval of all co-authors. The co-author may not use his/her approval contrary to the principle of consciousness and honesty nor make any acts which would harm interests of other co-authors.
  - b) Any co-author shall be authorised to lodge claims for protection of copyrights on co-author's work provided that s/he may lodge claims only on his/her behalf and to his/her benefit.
  - c) If not otherwise agreed the co-authors shall share economic profit from the utilisation of co-author's works in proportion to the real contribution each has given in the work's creation.
3. Unless otherwise provided in the Contract the author's property right holder on the work shall be the person who commissioned it.
4. In the exploitation of the work the person commissioning the collective author's work shall be obliged to state the list of the authors whose contribution were contained in the collective author's work on each copy.

### **Chapter V- CONTENT AND EXPLOITATION OF COPYRIGHT**

#### **Article 29**

Copyright shall include property and legal powers (hereinafter referred to as "authors' property rights") and personal and legal powers (hereinafter referred to as "authors' moral rights").

#### **Article 30**

1. The author's property rights shall exclusively consist of the author's rights to the exploitation of his/her work.
2. Unless otherwise provided in this Law, exploitation of the author's work by another person may take place only with the authorization of the author.
3. Unless otherwise provided in this Law or in a contract, the author shall have the right to remuneration for any exploitation of his/her work by another person.

### **Article 31**

The author's moral rights shall comprise the inalienable and non-transmissible powers of the author and it is that the author may: decide when and in what form his/her work shall be published; be recognised and indicated as the creator of the work under his/her name, pseudonym or anonymously; object to any distortion, mutilation and other alteration of the work and his/her right to object to any use of the work that are prejudicial to his/her reputation and/or honour.

### **Article 32**

Any person who publishes, alters, arranges, performs, translates or records an author's work and any other person who exploits such author's work in public shall be required to indicate the full name of the author of the work for each and every exploitation, if the author does not want the work to be anonymous or under pseudonym.

### **Article 33**

1. The author may at any time, after having compensated the damages to the owner of the copy of the work or the exploitation rights owner, withdraw his/her work from circulation, as well as prohibit further exploitation of the work in any form whatsoever, if s/he has serious moral grounds for it.
2. If the author's work referred to in Paragraph 1 is put back into circulation, the former owner of the copies of the work or the former exploitation right holder shall have the priority right within 30 days as of the date he was informed about it, but not later than one year as of the date on which the work was put back into circulation.
3. The powers provided for in Paragraph 1 shall not belong to other copyright proprietors.
4. Provisions of Paragraphs 1, 2 and 3 shall not apply to computer programmes, cinematography work and databases.

### **Article 34**

The author shall have the exclusive right to authorise the publication, reproduction, to put into circulation the original or the copies of the work, including the importation thereof, presentation, public performance, broadcasting, communication to the public, translation, adaptation, or exploitation of the work in any other form, unless otherwise provided in this Law.

### **Article 35**

1. The right to reproduce shall be construed as the right of the author to authorize the reproduction of his/her work regardless of the type, method and procedure, as well as the number of copies produced.
2. Multiplication of the work shall also include storing of the work in electronic form.

### **Article 36**

1. The right to distribute shall be construed as the right to make the original or copies of the work available to the public by sale, renting or in other forms of ownership transfer.
2. The right to distribute shall also include the exclusive right of the author to import copies of the work into a respective country with a view to their further distribution, regardless of the way in which such copies were made.
3. The exclusive right of putting the original or copies into circulation in Bosnia and Herzegovina shall be exhausted through the first sale or a different form of obtaining ownership right on the original or copy of

### **Article 37**

1. The authors of computer programmes, cinematography works and works created in a manner analogous to them and of the works fixed on sound carriers shall have the exclusive right to authorise the rental of the originals or the copies of those works.
2. The right of rental shall be construed to mean the exclusive right of the authors referred to in Paragraph 1 to make the original or copies of a work available for use to other person for a limited period of time and for the purpose of direct or indirect economic or commercial benefit.
3. The exercise of the right to put in circulation shall not include the right of author to rent the work, that is copies of the work.

### **Article 38**

The right of communicating author's works to public shall be construed as making author's work available, whether by wire or not, including making their work available to public in such a manner that the work is available to everyone from the place and at the time individually chosen by that person.

### **Article 39**

1. Authors of dramatic, dramatically - musical and musical works shall have the exclusive right to give approval for:
  - a) the public presentation and public performance of such works;
  - b) the public transmission of the presentation or performance of such works by any means.
2. The rights referred to in Paragraph 1 shall also be granted to the authors of dramatic and dramatically - musical works with respect to translations of such works.

### **Article 40**

1. It shall be the exclusive right of the author to prohibit or allow broadcasting of his/her work to any other person.
2. Broadcasting in terms of Paragraph 1 shall be construed as public transmission of the work either via wire or wireless transmission of electromagnetic, electric and other signals to a distance (radio-diffusion and cable diffusion).
3. Wireless and wire broadcasting shall be two separate work exploitation actions and are subject to two separate copyright powers, except:
  - a) if the wire re-broadcasting of the work which has been broadcast by wireless means, is a technically necessary precondition for receiving the programme,
  - b) if not more than 100 receivers are supplied with the signal through the wire re-broadcasting of the work which has been broadcast by wireless means, on a non-commercial basis.
4. The act of broadcasting referred to in Paragraph 2 shall also exist when, under the control of the entity in charge of broadcasting on its responsibility, programme-carrying signals intended for the public receiving are sent in an uninterrupted communication chain to a satellite and back down to Earth.
5. If the signals are encrypted, broadcasting by satellite shall exist provided that the means of decrypting are supplied to the public by the broadcasting entity or by third person having its authorisation.

#### **Article 41**

It shall be the exclusive right of the author to approve communication of his/her work by broadcasting via radio-diffusion to the public by means of a loudspeaker or any other similar device for transmission of signs, sounds or images (hereinafter: secondary radio-diffuse broadcasting).

#### **Article 42**

Authors of literary, scientific and musical works shall have the exclusive right to approve:

- a) the recording of such works by instruments for mechanical reproduction;
- b) the public performance and communication of such works recorded by instruments for mechanical reproduction.

#### **Article 43**

1. Approval granted in respect to public presentation and public performance, public transmission of a presentation and performance (radio-diffuse broadcasting) to the public or any other communication to the public shall not imply permission to record the work by means of sounds or images recording instruments.
2. Unless otherwise agreed in contract, the broadcasting organization may, by means of its own facilities and solely for its own needs, record the protected work it has received the approval to broadcast, and may rebroadcast such recordings upon the payment of a remuneration and without seeking new approval from the author.
3. The recordings referred to in Paragraph 2 may be placed in public archives as documentation material.

#### **Article 44**

The author of a literary work shall have the exclusive right to approve the public recitation of his/her literary work as well as public transmission of the recital via all means and procedures.

#### **Article 45**

1. The author shall have the exclusive right to approve adaptations, arrangements or other alterations of his/her work.
2. Rights referred to in Paragraph 1 shall be recognised to the author of literary works for all the time of duration of his/her rights on original work and in respect to the translation of his/her work.

#### **Article 46**

1. Authors of literary, musical, scientific and artistic works shall have the exclusive right to approve:
  - a) the cinematography adaptation or reproduction of these works and the distribution of the works;
  - b) the public performance, public presentation, as well as electronic transmission of communicating the adjusted or reproduced works to the public.
2. Without prejudice to the rights of the author of the work, which was adapted or reproduced, a cinematography work created by the adaptation or reproduction of literary, musical, scientific or artistic works shall be protected as an original work.
3. The adaptation, in any artistic form, of cinematography works derived from literary, musical, scientific or artistic works shall not be effected without the authorization of the authors of such works or without the authorization of the authors of the cinematography works, unless that right has been transferred by them to the producer by a contract.

4. The provisions of Paragraphs 1, 2 and 3 shall also apply to the reproduction or production effected by any other process analogous to cinematography.

#### **Article 47**

1. Authors of original works of fine art, with respect to such works, and authors of literary, scientific and musical works, with respect to their original manuscripts, shall be entitled to be informed by the owners or users of such works of the identity of the new owner or user.
2. If the original of a work of fine art or an original manuscript is sold, or if the ownership of it is transferred by some other legal transaction against payment, the author shall have the right to be notified of such transfer and also the right to remuneration corresponding to 5% of the selling price (*droit du suite*).
3. The person transferring the ownership of the work shall be liable for the payment referred to in Paragraph 2. If the transfer of ownership is effected through a gallery, by an auction or through another agent, the persons concerned shall be jointly liable with the person transferring the ownership. The duty of notification refers to the particulars of sold originals, to information on the vendor and on the retail-selling price, and also to the guarantee of the author's right to inspect the books or other documents of liable persons to the extent necessary.
4. The author may not renounce in advance his *droit de suite* or transfer it by legal acts during life. *Droit de suite* can be inherited.
5. *Droit de suite* cannot be subject to compulsory execution.
6. The provisions of Paragraphs 1, 2, 3, 4 and 5 shall not apply to architectural works or works of applied art.

#### **Article 48**

1. If the owner of an architectural structure intends to have reconstruction work done, s/he shall first offer the reconstruction work to the author of the architectural design, provided that s/he is still living and can be reached in the customary manner.
2. If the author unjustifiably refuses the co-operation, the owner shall be free to have the intended reconstruction work done.
3. The author retains the author's moral rights.

#### **Article 49**

1. The author shall have the access right to the original or copies of the works in possession of another person if it is necessary for the exercise of his/her right to reproduce or redesign and if it is not contrary to justifiable interests of the owner.
2. The author may request from the owner of the fine art of photography work to hand over original or copies of the work for the sake of their exhibiting in Bosnia and Herzegovina if s/he proves the existence of the prevailing interest.
3. Handing over the original or copy of the work referred to in Paragraph 2 may be conditioned by issuing guaranties or concluding the insurance contract to the amount of market value of the work.
4. The access right to the work, as well as its exhibiting, shall be exercised on the author's cost and with the least possible damage for the owner. In the event of damage to original or copy of the work the author shall be held responsible irrespective of liability.

#### **Article 50**

1. The following shall be permissible on the territory of Bosnia and Herzegovina without the authorization of the author:
  - a) the reproduction of individual pieces of literary, scientific or artistic works or such works of smaller extent in reader's books and textbooks to the purpose of educational and scientific work, as well as

individual works in the field of photography, fine arts, architecture, applied arts, industrial design and cartography if it is the matter of already published works of a larger group of authors;

- b) re-printing in periodical papers of current articles discussing general issues of public interest, unless the author has expressly prohibited the reproduction of those articles.

2. The provisions of Paragraph 1 shall apply in an appropriate manner on public communication as well.
3. In all of the cases referred to in Paragraph 1 the author's surname and forename, the original work and the origin of the borrowing must be clearly indicated.
4. In the cases referred to in the Paragraph 1, the author shall have the right to remuneration and all other rights vested in him/her under this Law.

### **Article 51**

1. The following shall be permissible on the territory of Bosnia and Herzegovina without the authorization of the author and without the payment of remuneration for use:
  - a) the public presentation and performance of a literary or artistic work for the purposes of direct teaching or in the form thereof, as well as secondary broadcasting of school shows by means of radio-diffusion and public presentation and performance of published works provided that such performance involves no entrance fee or other form of payment or is given on the occasion of school celebrations where attendance is free of charge;
  - b) the publication of reviews of published literary, artistic or scientific works, wherein the content of such works is reproduced in an original and condensed manner;
  - c) the reproduction of artistic works exhibited in parks, streets and squares provided that they are not used in three-dimensional form or to the same purpose as the original work or for gaining economic profit;
  - d) the reproduction of works already published, effected for purposes of improving one's personal knowledge, provided that such reproduction is neither intended for nor accessible to the public and does not indirectly serve to another person for gaining or increasing profit;
    - dd) provisions of item d) shall not be related to architectural works, computer programs, databases working with the assistance of computer technology, as well as fixing public communication of works on picture or sound carrier;
    - ddd) entire book, magazine or daily newspaper may in private purpose copy only manually or via typing machine and photo-copies maximum in three copies if the work has been sold out more than two years ago;
  - e) the works exhibited in public exhibition, fairs, auctions or collections which the exhibitor may freely reproduce in catalogues issued to that purpose;
  - f) the reproduction of works of painting by means of sculpture and *vice versa*, as well as the reproduction of works of architecture by means of painting or sculpture;
  - g) the faithful quotation of excerpts (citations) from a work that became available to the public in a lawful way, provided that it is in compliance with customary usage and in the measure justified by the purpose to be achieved, and that in the quotation, the source and the name of the author, if available in the source, are indicated;
  - h) use of works in the procedure before arbitration before judicial, administrative and state bodies to the extent demanded by the presentation of evidence.
2. In the cases referred to in Paragraph 1 the author shall retain all other rights vested in him/her by this Law.

### **Article 52**

1. If the author's work is a computer programme, the following shall be allowed to a person who has lawfully acquired a copy of the computer programme, without the authorization of the author and without payment of remuneration, if necessary for his/her own normal use of the program, to:
  - a) install the programme into computer memory and run it;
  - b) correct errors in the programme or make other necessary alterations in it, unless otherwise provided for by the contract;
  - c) make a back-up copy of the programme on a hard disc;
  - d) perform de-compilation of the programme exclusively for the purpose of obtaining the information necessary to achieve interoperability between that programme and an independently created computer programme or particular hardware, provided that the information was not otherwise available.
2. Information obtained in accordance with Paragraph 1 d) may not be given to others nor used for other purposes, especially for development or marketing of another computer programme, which would infringe the copyright on the original programme.
3. The person who has lawfully acquired a copy of the computer programme may undertake actions referred to in Paragraph 1 directly or through another expert person working under his/her commission.

### **Article 53**

1. Speeches intended for the public and made before the representation bodies, before courts and other state authorities, in scientific, artistic, religious and other organizations, as well as at public meetings and official celebrations, may, without the authorization of the author and without the payment of remuneration for their use, be published by the press and radio or television for purposes of reporting current events.
2. Other lectures, addresses and other works of the same nature may, without the authorization of the author and without the payment of remuneration for their use, only be reported briefly in the daily and periodical publications and via broadcasting.
3. A collection of the works mentioned in Paragraphs 1 and 2 may not be compiled without the authorization of the author.
4. In the cases provided for in Paragraphs 1 and 2 the author shall retain all other rights vested in him/her by this Law.

### **Article 54**

1. Remuneration shall be paid for public performance of folk literature and art creations same as for the public performance of authors' works.
2. The exploitation of folk literature and art creations in any other form shall be free.
3. Persons who exploit folk literature and art creations must indicate the origin of the work and refrain from any mutilation or any unworthy use thereof.
4. The corresponding associations of authors and the institutions in the field of arts and science shall be entrusted with the safeguarding of the rights referred to in Paragraph 3.

## **Chapter V - TRANSFER OF COPYRIGHT**

### **Article 55**

1. The right of the author to the exploitation of his/her work may be transferred wholly or in part, with payment of remuneration or without it, to individual persons or to legal entities for the entire term of copyright or for a specific period of time.
2. The person to whom the right of exploitation of the author's work has been transferred may not, unless otherwise agreed, transfer that right to a third party without the consent of the owner of the right.

## **Article 56**

When using the author's work, the person to whom the right of exploitation of that work has been transferred shall not be authorized to make any modifications thereof, unless otherwise agreed or provided for in this Law.

## **Part 1 - Transfer by Authors' Contracts**

### **Article 57**

The author may transfer the right of exploitation of his work to another person through authors' contracts, such as publishing contract, presentation contract, performance contract, contract on a cinematography work, contract on radio and television broadcasting, contract on recording the work by means of instruments recording sounds and images, contract on the alteration (adaptation) of the work, contract on the transfer of the right of translation of the work, and the like.

### **Article 58**

1. Authors' contracts shall be concluded in writing.
2. The author's contract not concluded in writing shall have no legal effect, unless otherwise provided for in this Law.

### **Article 59**

The author's contract shall contain in particular: the names of the contracting parties, the title of the author's work which is the subject of the contract, the type of use of the author's work, the amount, terms and time limits for the payment of remuneration where the work is used in consideration of remuneration.

### **Article 60**

If the revenue derived from the use of the author's work is evidently disproportionate to the agreed author's remuneration, the author shall be entitled to request that a more equitable participation in the revenue so derived be fixed and/or ensured by an amendment of the contract for the use of the work.

### **Article 61**

1. The author's contract may also concern a work not yet created.
2. Any contract in which the author transfers the right of exploitation in respect of all of his/her future works shall be null and void.

### **Article 62**

The author shall be required, during the period of validity of the contract, to refrain from acts which might obstruct the user in the exercise of the transferred copyright.

### **Article 63**

The provisions of the law governing contractual relations shall apply to authors' contracts, unless otherwise provided by the provisions of this Law.

## **Part 2 - Publishing Contract**

### **Article 64**

1. By a publishing contract the author transfers to the publisher the right of publication of his/her author's work by means of printing or multiplication.
2. The publisher shall be required to publish the author's work, to indicate the author's surname and forename visibly on each copy, if the author does not want the work to be anonymous or pseudonymous; to pay a remuneration to the author if the work is used in consideration of remuneration; to ensure effective distribution of copies of the work, and to supply the author periodically, at his/her request, with information concerning the distribution of copies of the author's work.
3. The author may also transfer to the publisher, by a publishing contract, the right of translation of his/her work for the purpose of the publication thereof in other languages, both in Bosnia and Herzegovina and abroad.

### **Article 65**

1. The author's agent may conclude a publishing contract only for the works specified in his/her power of attorney.
2. The agent of the author with limited business faculties may not conclude a publishing contract without the author's consent to publish the work.

### **Article 66**

1. The publishing contract shall in particular specify the scope and duration of the use of the right transferred to the publisher by the author, the time limit within which the publisher is required to publish the work and the amount of the remuneration if remuneration was agreed upon.
2. Where the remuneration for the use of the work is fixed as a percentage of the retail price of the sold copies, the publishing contract shall likewise specify the minimum amount of the remuneration which is payable by the publisher regardless of the number of copies sold, as well as the time limit for paying that amount.

### **Article 67**

1. During the publishing contract validity period the author may not, unless otherwise stipulated in the contract, assign to a third party the right of publication or of multiplication of the author's work in the same language.
2. The author may, unless otherwise stipulated in the contract, assign the right of publication of newspaper articles to several users at the same time.

### **Article 68**

Unless otherwise stipulated in the publishing contract, it shall be considered that the author has transferred the publisher only the right of publication of a single bibliographic edition, that is, the right to a single multiplication by that contract.

### **Article 69**

The manuscript or any other original of the author's work, which is the subject of the publishing contract, shall, unless otherwise stipulated in the contract, remain the property of the author.

### **Article 70**

Unless otherwise stipulated in the publishing contract, the publisher shall be required, if new editions of the author's work are printed, to allow the author to include improvements or modifications in his/her work,

provided that these do not involve excessive expenses for the publisher and do not alter the character of the work.

#### **Article 71**

1. If a work is destroyed by *force majeure* after it has been submitted to the publisher in order to be published, the author shall be entitled to the remuneration which would have been due to him had the work been published.
2. If a prepared edition is destroyed by *force majeure* before its distribution, the publisher shall be entitled to prepare a new edition, and the author shall have the right to the remuneration for the destroyed edition but not for the identical new edition.
3. In the case of a partial destruction of a prepared edition by *force majeure* before its distribution, the publisher shall, without paying remuneration to the author, be entitled to reproduce only as many copies as were destroyed.

#### **Article 72**

1. The following shall cause the termination of the publishing contract: the death of the author before the completion of the author's work, the fact that all editions provided for in the contract are out of print and the termination of the contract.
2. Unless otherwise stipulated in the contract, the author may request the termination of the publishing contract if, after one edition being out of print, the publisher has not proceeded with publishing a new edition within a year as of the date on which the author requested him to do so.
3. If the author has not delivered the author's work to the publisher or the publisher has not published the work within the time limits provided for in the contract, the publisher or the author may demand the termination of the contract and claim damages for non-fulfilment of the contract; in addition, the author shall have the right to keep the remuneration received i.e. to request the payment of the remuneration stipulated in the contract.
4. If the time limit for publication of the work has not been fixed in the contract, the publisher shall be required to publish the work within a reasonable period of time, and at the latest within one year from the date of the submission of the manuscript or other original work.

#### **Article 73**

A contract for the publication of articles, drawings and notes in newspapers, reviews and other periodicals need not be concluded in writing.

#### **Article 74**

1. If, during the publishing contract validity period and at the latest upon expiry of three years as of the work publication date, unless a longer period is stipulated in the contract, the publisher intends to sell unsold copies of the work for pulping, s/he shall be bound to offer them first to the author at the price which s/he would obtain if s/he sold them for pulping.
2. If the author does not purchase the offered copies of the work, or purchases only a part thereof, the publisher may sell the remaining copies of the work for pulping.

### **Part 3 - Presentation Contract and Performance Contract**

#### **Article 75**

The author of the work shall transfer the right of public presentation or performance of the author's work to the user by a performance contract or a presentation contract respectively, and the user shall undertake to present i.e. perform the said work within the fixed time limit, and in the manner and under conditions set forth in the contract.

#### **Article 76**

The author may simultaneously transfer the right of presentation or performance respectively of a particular author's work to a larger number of users, unless he has renounced that right by a contract.

#### **Article 77**

The presentation contract or the performance contract respectively shall in particular specify the type of presentation i.e. performance of the author's work and the territory in which the work may be used.

#### **Article 78**

1. If, within the time limits provided for in the contract, the author has not delivered the work (manuscript, score, or the like) to the user, or the user has not presented or performed the work respectively, the author or the user may demand the termination of the presentation contract or the performance contract respectively and claim damages for non-fulfilment of the contract.
2. If the termination of the contract is due to a fault on the part of the user, the author shall also have the right to keep the remuneration received i.e. request payment of the remuneration stipulated in the contract.
3. The manuscript, score or other original of the author's work, which is the subject of the presentation contract or the performance contract, shall remain the property of the author, unless otherwise stipulated in the contract.

#### **Article 79**

The beneficiary of the presentation contract or performance contract shall be required to allow the author to monitor the presentation i.e. the performance of the work, to ensure that the work is presented or performed under technical conditions guaranteeing that the moral rights of the author shall be respected, as well as to supply the author or his/her agent with the programme and to inform him periodically of the revenue derived from the performance i.e. presentation of the work.

### **Part 4 - Contract on a Cinematography Work**

#### **Article 80**

1. Contracts on cinematography works shall include both the contracts concluded by the authors of the cinematography work (contracts concerning the scenario, the film direction, the film music and the one concluded with the principal cartoonist) and the contracts concerning individual contributions to the cinematography work made by other authors.
2. The authors of the cinematography work shall transfer to the producer, by a contract, the right to film, reproduce, distribute, publicly perform and broadcast the cinematography work.
3. The producer shall be required to distribute the cinematography work and to provide the authors thereof, upon their request, with information concerning the results of such distribution.
4. The remuneration stipulated in the contract for filming the cinematography work shall not include the remuneration for reproduction, public performance and broadcasting of the cinematography work.

#### **Article 81**

1. During the contract validity period for the cinematography work, the authors of that work may not, unless otherwise stipulated in the contract, transfer to a third party the right of filming, reproduction, distribution,

public performance, broadcasting, communicating to public, titling and synchronising cinematography work nor oppose exercise of these rights by the producer.

2. If the producer to whom the authors have transferred the right to film the work does not do so within a period referred to in Article 23 Paragraph 1, the authors may demand termination of the contract and claim damages for non-fulfilment of the contract, as well as keep the remuneration received i.e. request the payment of the remuneration stipulated in the contract.

## **Part 5 - Transfer by Inheritance**

### **Article 82**

The provisions of the Law on Inheritance shall apply to the inheritance of copyright, unless otherwise provided for in this Law.

### **Article 83**

After the death of the author, the protection of the authors' moral rights, unless the author otherwise determined while his/her property rights were still in effect, shall be vested in his/her heirs, as well in the association of authors the deceased author belonged to or would have belonged to according to the type of the author's work.

## **Chapter VI - COPYRIGHT TERM**

### **Article 84**

1. Authors' property rights shall continue during the author's life and 70 years after his/her death.
2. If authors' rights belong jointly to the co-authors the term referred to in Paragraph 1 shall be counted from the death of the last deceased co-author.
3. Author's rights on an anonymous author's work and on an author's work published under a pseudonym shall continue for 70 years as of the lawful publication of the work. If the pseudonym leaves no doubt regarding the identity of the author or if the author reveals his/her identity, the author's rights shall last as long as it would have lasted if the author's work had been published under the author's name.
4. If the holder of the author's property right, in terms of Articles 26, 27 Paragraph 2 and Article 28, is a legal entity, the copyright shall cease to exist after expiry of seventy years as of the publication of the work i.e. 70 years respectively as of the creation of a computer programme.
5. The terms referred to in Paragraphs 1, 2, 3 and 4 shall run as of January 1 of the year immediately following the year of the author's death i.e. the year in which the work was published.

### **Article 85**

After the termination of authors' property rights, a special remuneration shall be paid for the use of the author's work if so provided by a separate law.

## **Chapter VII - ADMINISTRATION OF COPYRIGHT**

### **Article 86**

The author may exercise his/her author's rights personally or through an agent.

### **Article 87**

1. The activity of administering copyrights may, with the authorisation of the Institute for Standards, Measures and Intellectual Property of Bosnia and Herzegovina (hereinafter the Institute), be carried out by associations

of authors and other copyright holders as well as by other legal entities specialised for the administration of copyrights.

2. The administration of copyright carried out by the association of authors or other specialised legal entity referred to in Paragraph 1, with the exception of rights referred to in Paragraph 3 shall require the power of attorney given by the author or other copyright proprietor.
3. Copyrights in public performances of non-performing musical or literary works (*petites droites*), including the rights referred to in Articles 40 and 44 may be administered by the association of authors even without the power of attorney of the author or other copyright proprietor.
4. The Institute shall give authorisation referred to in Paragraph 1 to the association of authors, which meets the professional criteria necessary for administration of copyrights.
5. The Institute shall, by its document, prescribe the professional criteria referred to in Paragraph 4.
6. If the association of authors or other legal entity specialised for the administration of copyrights cease to meet the prescribed criteria for carrying out such activity, the given authorisation shall be put out of effect.

### **Article 88**

If there is no copyright contract for a public performance of non-performing literary and musical works or if the contract does not stipulate the amount of remuneration, the associations of authors may obtain remuneration for the authors of these works to the amount that they have determined in their Regulations. The same shall apply to broadcasting.

### **Article 89**

In order to act as a representative before courts and other bodies, the association of authors or the organisation referred to in Article 87 must possess a special power of attorney from the author whose copyright is concerned in the litigation.

### **Article 90**

1. The organisation of authors i.e. specialised legal entity referred to in Article 87 Paragraph 1 does not require special author's power of attorney for the safeguarding the exercise of copyrights referred to in Article 87 Paragraph 3 before courts and other bodies.
2. The organisation of authors i.e. specialised legal entity referred to in Article 87 may initiate and conduct the dispute referred to in Paragraph 1 on its own behalf but it shall be obliged to inform the author on the exercised rights.

### **Article 91**

1. The impresarios of cultural and artistic entertainments and other users of authors' works shall be required to obtain authorization for the performance or presentation of such works in cases where such authorization is required under the provisions of this Law, and to supply the association of authors or the organisation referred to in Article 87 with the programmes of the works performed or presented, as well as to pay them royalties for the exploitation of such works without delay, and at the latest within 15 days as of the date of the performance or presentation,.
2. At the request of the author or the organisation referred to in Article 87 the competent police administration shall prohibit the organisation of the performance exploiting the author's work, or the second use of the author's work respectively, if the entertainment impresario, or other user of the author's work, does not have authorization of the author or the organisation referred to in Article 87.
3. The users of authors' works shall provide all the information relevant for the administration of a copyright to the organisation administering copyrights and shall make the corresponding documentation available for inspection.

4. At the request of organisation administering copyrights the Financial Police shall be obliged to provide the necessary assistance in performing actions concerning the administration of copyrights.

## **CHAPTER IX - RIGHTS OF PERFORMERS**

### **Article 92**

Performers who perform literary or musical works or other artistic works shall, in respect of their performances, enjoy the rights laid down in this Law.

### **Article 93**

1. In terms of this Law, performers shall be actors, singers, musicians, dancers and other persons who act, sing, recite, read poetry and perform literary and artistic works by means of their body language or in any other way.
2. Theatre directors, orchestra and choir conductors, sound editors and variety and circus artists shall be deemed performers in terms of Paragraph 1.

### **Article 94**

1. The performer who is a citizen of Bosnia and Herzegovina, or a foreign citizen who has place of residence in Bosnia and Herzegovina, shall enjoy the rights provided in this Law in respect to his/her performances given or used in Bosnia and Herzegovina or abroad.
2. The performer who is a foreign citizen or stateless shall enjoy the rights in respect to his/her performances given or used in Bosnia and Herzegovina, pursuant to this Law within the framework of the obligations which Bosnia and Herzegovina has assumed under international treaties or on the basis of *de facto* reciprocity.

## **Chapter X - CONTENT OF THE RIGHTS OF PERFORMERS**

### **Article 95**

1. The performer shall enjoy property and moral rights provided in this Law.
2. The property rights referred to in Paragraph 1 shall be construed to be the rights of the performer in relation to the exploitation of his/her performance.
3. The moral rights referred to in Paragraph 1 shall be construed to be the performer's right to have his/her name or pseudonym mentioned on any presentation of his/her performance to the public, and also on any recording or on the cover of any recording thereof, and his/her right to object to any distortion, shortening or other alteration of his/her performance, to the use and distribution of his/her recorded performance which has technical or other defects, and also to improper use of recordings that are insulting to the performer's honour and reputation.

### **Article 96**

1. Unless otherwise provided for in this Law, the performer shall have the exclusive right to authorise:
  - a) radio or television broadcast of his/her performance;
  - b) presentation to the public of his/her performance by means of a loudspeaker or other technical devices outside the room or place where the performance is taking place;
  - c) sound or visual, or sound and visual recording of the performance;
  - d) direct or indirect reproduction of the recorded performance in its entirety or in part;
  - e) distribution of the original or the copies of the recorded performance including the importation and the rental thereof.

2. The provisions of Article 36 Paragraph 2 and 3 and Article 37 Paragraph 3 shall apply to the performers' rights in the corresponding way.
3. Unless otherwise provided in the Law or contract all performers shall be entitled to remuneration.
4. Any member of an artistic group of performers who leaves the group shall be entitled to a share of the remuneration for the performance in which s/he participated.

#### **Article 97**

1. The following shall be permitted without the authorization of the performer and without payment of remuneration:
  - a) use of the performance for the purposes of teaching and scientific research;
  - b) use of short fragments of the performance in the reporting on current events;
  - c) recording of the performance by the broadcasting organisation by means of its own recording facilities and for its own broadcasts (ephemeral recordings), provided that the said organization has been authorized to broadcast the performance.
2. The recordings referred to in Paragraph 1 c) may after broadcasting be entrusted to public archives as documentary material or be re-broadcasted against remuneration.

#### **Article 98**

1. If the recorded performance, which has been put into circulation, is used for the radio or television broadcasting or for other presentations to the public (secondary use), the performer shall be entitled to remuneration.
2. In the absence of contract for the performance broadcasting or other presentation to the public or in case the contract does not determine the amount of remuneration, the association of performers may obtain the remuneration for the performer to the amount fixed by that association in its Rulebook.

#### **Article 99**

1. The rights of the performer who is the employee of an organization shall be governed by the collective agreement and an act of the organisation, or by the contract between the organisation and the artist who is employed in accordance with the Law hereof.
2. The moral rights of the performer, as recognized by this Law, may not be limited by the collective agreement and the act referred to in Paragraph 1.
3. The organisation of which the performer is the employee may use the said employee's performance without his/her authorisation provided that the performance is given in the execution of his/her work duties.

#### **Article 100**

1. If the performance of the performer who is an employee goes beyond the limits of his/her duties at work, or if it is transferred to another organisation, the performer shall be entitled to remuneration.

### **Chapter XI - TRANSFER OF THE RIGHTS OF PERFORMERS**

#### **Article 101**

1. The performer may transfer the right of exploitation granted to him/her in relation to his/her performance by contract to another person (performer's contract), either in entirety or in part, with or without the remuneration, during the term of that right.

2. The person to whom the right to exploit the performance has been transferred may not, without the consent of the performer, transfer that right to a third party unless otherwise provided for in the performer's contract.

#### **Article 102**

1. The performer's contract shall be concluded in writing.
2. The performer's contract that is not concluded in writing shall have no legal effect.

#### **Article 103**

1. The performer's contract shall contain the following: the names of the contracting parties, the medium and manner in which the performance is to be used, the name of the author and the title of the work performed, the amount of remuneration and the mode of payment and time limits thereof.
2. In addition to the particulars mentioned in Paragraph 1 the performer's contract relating to the recording of the performance and to the broadcasting of the said recording via radio or television shall also state the number of broadcasts and the period during which broadcasting may take place, while the performer's contract relating to the reproduction of the recording shall state the number of copies that may be made.

### **Chapter XII - TERM OF PERFORMERS' RIGHTS**

#### **Article 104**

The term of performers' property rights provided for in this Law shall be fifty years, counted,

- a) for recorded performances from the end of the year in which they were recorded;
- b) for unrecorded performances, from the end of the year in which they were presented.

### **Chapter XIII - ADMINISTRATION OF THE PERFORMERS' RIGHTS**

#### **Article 105**

The performer may exercise his rights directly or through an agent.

#### **Article 106**

1. The activity of administering performers' rights shall be, with the authorisation of the Institute carried out by the associations of performers and other performers' rights proprietors, as well as by other legal entities specialised for the administration of performers' rights.
2. The Institute shall give the authorisation referred to in Paragraph 1 to the organisation, which meets the professional criteria necessary for carrying out the administration of performers' rights.
3. The Institute shall, by its document, prescribe the professional criteria referred to in Paragraph 2.
4. For the administration of performers' rights, the association of performers or other specialised legal entity referred to in Paragraph 1 shall require the power of attorney given by the performer, or by other performers' rights proprietor.
5. If the association of performers or other legal entity specialised for the administration of performers' rights shall cease to meet the prescribed criteria for carrying out such activity, the given authorisation shall be put out of effect.

#### **Article 107**

1. Broadcasting organisations and other users shall be obliged to provide the organisation representing a performer with detailed information concerning the use of his/her performance.

2. The users referred to in Paragraph 1 shall also be obliged to submit to the organisation representing a performer a copy of the performer's contract.

#### **Article 108**

1. Artistic groups of performers shall exercise their rights through the persons authorized by the members of that group.
2. If, in addition to the group of performers, a conductor, soloists and leading actors who are not members of the group take part in the performance of a musical work or any other artistic work, the right of authorization referred to in Article 96 shall belong also to those additional performers, unless otherwise agreed between them and the group.

### **Part 1 - Rights of the producers of phonograms**

#### **Article 109**

1. A producer of phonograms shall be considered the person who first records the sounds of the performance or other sounds.
2. Unless otherwise provided in this Law, producers of phonograms shall have the exclusive right of giving authorisations for:
  - a) The reproduction of the phonograms in whole or in part;
  - b) The distribution of the original or copies of their phonograms, including the importation and rental thereof;
3. Producers of phonogram shall be entitled to remuneration in the cases referred to in Paragraph 2 unless otherwise provided in this Law or contract.
4. Producers of phonograms shall be entitled to remuneration in the case where the phonogram, which is put into circulation, is used for the radio or television broadcast or for other communication to the public (secondary use).
5. The producer of a phonogram shall pay half of the amount of the remuneration referred to in the preceding Paragraph to the performer whose performance was recorded in the used phonogram unless otherwise agreed in the contract between them.
6. The rights of the producers of phonograms shall last for 50 years, counting as of the end of the year in which the phonogram was published, and if it has not been published as of the end of the year in which the recording took place.
7. Paragraphs 2 and 3 of Article 36, Paragraph 3 of Article 37, Articles 97, 105, 106 and 107 shall apply to the rights of the producers of phonograms.
8. The rights of producers of phonograms shall not in any way affect the rights of the authors and of the performers.
9. The foreign producers of phonograms shall have the rights prescribed by this Law provided that they possess a seat or place of residence in Bosnia and Herzegovina within the framework of the obligations assumed under international treaties or on the basis of the *de facto* reciprocity. In accordance with this Law the foreign producers of phonogram for the first time recorded on a sound carrier in Bosnia and Herzegovina shall enjoy the protection

### **Part 2 - Rights of the broadcasting organisations**

#### **Article 110**

1. Unless otherwise provided by this Law, a broadcasting organisation shall have the exclusive right to authorise:

- a) the re-broadcasting of their shows by wire or wireless means;
  - b) the recording of their shows;
  - c) the reproduction and distribution of so reproduced copies of their recorded shows;
  - d) the presentation of their television broadcasts to the public, if such presentation is accessible to the public against the payment of an entrance fee.
2. The rights of the broadcasting organizations shall continue for 50 years, counting as of the end of the year in which the broadcasting took place.
  3. Provisions of Article 97 shall apply in the corresponding manner to the rights of the broadcasting organizations.
  4. The rights of the broadcasting organisation shall not in any manner affect the rights of authors, performers and producers of phonogram.
  5. The foreign broadcasting organisations shall have the rights prescribed in this Law if it arises so out of international treaties, *de facto* reciprocity or if they transmit their shows via transmitters located on the territory of Bosnia and Herzegovina.

## **CHAPTER XIV - PROTECTION OF COPYRIGHT AND RELATED RIGHTS**

### **Part I – Judicial Protection**

#### **Article 111**

The person whose copyrights or other related rights have been infringed may demand protection of such rights through claims foreseen in this Law and may claim damages foreseen by the Law on contractual relations.

#### **Article 112**

1. Upon the request of the plaintiff, the court may order in its decision that:
  - a) the respondent be prohibited from engaging in certain preparatory acts, from the infringement itself and from future infringements;
  - b) the respondent rectifies the situation caused by the infringement and restore the situation existing prior to the infringement;
  - c) the unlawfully made copies of the work and their packaging, of a performance or of other subject matter protected by this Law should be destroyed or altered;
  - d) the matrixes, negatives, plates, moulds or other material that has been instrumental in the infringement should be destroyed or altered.
  - e) the devices whose sole or main purpose has been to make the infringements of the right protected by this Law and which are owned by the infringer, should be destroyed or altered.
  - f) the judgement should be published in public media at the respondent's expense, to such extent and in such manner as the court may deem appropriate.
2. The provisions of Paragraph 1 b) and c) shall not apply to architectural structures unless the destruction or alteration of a building is dictated by the circumstances of the case.
3. Instead of the action mentioned in Paragraph 1 c) and d) the plaintiff may claim that the respondent or the owner thereof surrenders him/her the copies or means specified therein, against reimbursement of the cost of their production.

#### **Article 113**

1. If property or other right of the author recognized by this Law has been infringed either intentionally or through gross negligence, the plaintiff may claim payment of an agreed or the customary royalty or

remuneration for such use, increased by up to 200%, regardless of whether s/he has suffered actual pecuniary damage on account of the infringement or not.

2. When deciding on the claim for the award of punitive mentioned in Paragraph 1, and determining the amount thereof, the court shall take into account all the circumstances of the case, and in particular the degree of culpability, the amount of agreed or customary royalty or remuneration and the general preventive purpose sought with the punitive damages.
3. In the event of the actual damage exceeding the amount of punitive damages, the plaintiff shall be entitled to claim the difference up to the full amount of actual damages.

#### **Article 114**

Regardless of any pecuniary damages recovered, or even where no material loss has been suffered, the court may award an author or performer equitable monetary satisfaction on account of the infringement of his/her moral rights in terms of provisions of the Law on contractual relations on the monetary compensation of non-material damages.

### **Part 2 - Provisional Measures**

#### **Article 115**

1. The authorised person, who shows justifiable grounds for the belief that his/her exclusive rights under this Law are being infringed or that the infringement is imminent, the court may order:
  - a) the provisional seizure or withdrawal from circulation of articles or means infringing the copyright or related right, or used for the infringement thereof, or which resulted from the infringement of the copyright or related right, or which may be used as evidence of the infringement of the copyright or related right;
  - b) the prohibition of the continuation of activities already started that would infringe copyright or related right or the prohibition of the continuation of activities infringing it.
2. If there is a likelihood that the later submission of evidence on infringement of copyright or related right could be difficult or impossible, or if there is a likelihood of irreparable damage, or if there is a likelihood that the provisional measures laid down in Paragraph 1 would not be effective, the court shall order such measures, without the prior notification to the other party to that effect.
3. The procedure concerning the proposal to order provisional measures shall be urgent.
4. The corresponding provisions of the Law on Enforcement shall be applied to any matter concerning the ordering of provisional measures, not regulated by this Law.

### **CHAPTER XV - CUSTOMS MEASURES**

#### **Article 116**

1. In the event of a suspicion that import or export of goods produced contrary to provisions of this Law is pending, the custom body shall be obliged to inform the right proprietor accordingly.
2. If the proprietor of the right referred to in this Law shows justifiable grounds for the belief that his/her exclusive rights are likely to be infringed by the importation of certain goods, the customs authorities may order the goods to be seized and the proprietor of the right and the person authorised to dispose goods shall be promptly informed.
3. The customs bodies shall inform the applicant on the origin, quantity and location where the goods are stored and the address of the person authorised to dispose the goods. The applicant shall provide the customs bodies to check the goods if it does not breach the business secret or secret of the company.

4. The customs bodies shall order the seizure of the goods if the complaint is not filed within maximum of 14 days after the receipt of the information.
5. The customs body shall promptly inform the applicant on the complaint of the person authorised to dispose goods against the goods seizure and the applicant shall promptly answer whether s/he upholds the request.

#### **Article 117**

1. If the applicant withdraws the request the custom body shall withdraw the goods seizure order.
2. If the applicant supports the request and forwards the enforceable court ruling ordering the storing of the seized goods the custom body shall take necessary steps.
3. If the applicant fails to act in line with the Paragraph above the custom body shall revoke goods seizure order within 10 days as of the delivery of the information to the applicant.
4. If the applicant proves that the court ruling is requested in line with Paragraph above, but court ruling is not delivered, the delay shall be extended for maximum of 10 days.

#### **Article 118**

If it shows that the goods seizure order was ungrounded and that the applicant supported his/her goods seizure request or has not immediately stated in regard to the seizure in line with Article 116 Paragraph 5 the applicant shall be obliged to compensate the person authorised to dispose goods for the damage caused.

#### **Article 119**

The Council of Ministers of Bosnia and Herzegovina shall pass more detailed regulations on the implementation of custom measures upon the proposal of the Ministry of Foreign Trade and Economic Relations.

### **CHAPTER XVI - PENAL PROVISIONS**

#### **Article 120**

1. Pecuniary fine to the amount KM 5,000.00 to KM 50,000.00 or imprisonment up to three years shall be pronounced to a person who:
  - a) under his/her own name or under the name of another person publishes, presents, performs, transmits or otherwise communicates to the public somebody else's work which is in terms of this Law considered to be author's work, or allows it to be done,
  - b) without indicating the name or the pseudonym of the author publishes, presents, performs, transmits or otherwise communicates to the public somebody else's work referred to in Paragraph 1 on which the name or the pseudonym of the author is marked or in an unlawful manner imports the parts of somebody else's work referred to in Paragraph 1 into his/her author's work or allows it to be done,
  - c) destroys, deforms, distorts or otherwise modifies somebody else's work without the author's authorisation,
  - d) without indicating the name or the pseudonym of the performer, except where the author wants to be anonymous, publishes, presents, performs or otherwise communicates to the public his/her performance,
  - e) without the performer's authorisation, destroys, deforms, distorts, mutilates or otherwise modifies the recorded performance without the performer's approval.
2. If the commitment of the criminal act referred to in Items a), b), c), d) and e) has resulted in a substantial financial gain or has caused a substantial damage, and the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, the perpetrator shall be punished by the imprisonment from 6 months up to five years.

## Article 121

1. Pecuniary fine to the amount KM 5,000.00 to KM 50,000.00 or imprisonment up to three years shall be pronounced to a person who:
  - a) without the authorisation of the author or any other copyright proprietor, or the person entitled to give authorisation, where such authorisation is required under the provisions of this Law, or, contrary to their prohibition, fixes on a material surface, reproduces, multiplies, distributes, rents, imports, brings across the state border, presents, performs, broadcasts, transmits, makes available to the public, translates, adapts, arranges, alters or uses the author's work in any other form,
  - b) without the authorisation of the performer or the person entitled to give authorisation, where such authorisation is required under the provisions of this Law, or, contrary to their prohibition, records, reproduces, multiplies, distributes, rents, imports, brings across the state border, presents, performs, broadcasts, transmits, makes available to the public or uses the performer's performance in any other way,
  - c) with the intention of facilitating the unauthorised use of the author's work or the performer's performance imports, brings across the state border, distributes, rents or allows to others the use and exploitation of any kind of equipment or device whose sole or main purpose is to facilitate the unauthorized removal or circumvention of any technical device or computer program that is used for protection of the authors and performer's rights against unauthorized use.
2. The person in whose possession the objects intended or used for commitment of a criminal act or resulting from the commitment of a criminal act referred to in Items 1 a), b) and c) are found and who knew, might have known or had reason to know about it, shall be punished by a fine to the amount KM 5,000.00 to KM 10,000.00 or by imprisonment up to six months.
3. If the commitment of a criminal act referred to in Items 1 a), b) and c) has resulted in a substantial financial gain or has caused a substantial damage, and the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, the perpetrator shall be punished by the imprisonment from six months up to five years.
4. The objects intended or used for the commitment of a criminal act or resulting from the commitment of a criminal act referred to in Items 1 a), b) and c) shall be seized and destroyed.

## Article 122

1. Pecuniary fine to the amount KM 5,000.00 to 20,000.00 or imprisonment up to one year shall be pronounced to the person who
  - a) without the authorisation of the producer of recording, where such authorisation is required under the provisions of this Law, or, contrary to their prohibition, broadcasts, reproduces directly or indirectly their recording, distributes, rents, imports, brings across the state border or makes available to the public the unauthorised recording
  - b) without the authorisation of the holder of the right with regard to the broadcast shows, where such authorisation is required under the provisions of this Law, or contrary to their prohibition, re-broadcasts or records the show, reproduces or distributes the recording of its show.
2. If the commitment of a criminal act referred to in Paragraph 1. a) and b) has resulted in a substantial financial gain or has caused a substantial damage and the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, the perpetrator shall be punished by the imprisonment from six months up to five years.
3. The objects intended or used for the commitment of a criminal act or resulting from the commitment of a criminal act referred to in Paragraph 1. a) and b) and Paragraph 2 shall be seized and destroyed.

### **Article 123**

1. The person who, without the authorisation of the lawful distributor of the encrypted satellite signal, manufactures, assembles, modifies, imports, exports, sells, rents or otherwise distributes a tangible or intangible device or system for decoding such a signal, knowing or having reason to know that the device or the system serves primarily for decoding an encrypted satellite signal, shall be punished for a criminal act by the fine to the amount KM 5,000.00 to 50,000.00 or by imprisonment up to three years.
2. If the commitment of a criminal act referred to in Paragraph 1 has resulted in a substantial financial gain or has caused a substantial damage, and the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, the perpetrator shall be punished by imprisonment from six months up to five years.
3. The objects intended or used for the commitment of a criminal act or resulting from the commitment of a criminal act referred to in Paragraphs 1 and 2 shall be seized and destroyed.

### **Article 124**

1. The person who receives an encrypted satellite signal that has been decoded without the authorisation of its lawful distributor and further distributes such a signal, knowing or having reasons to know that such a signal is decoded without authorisation, shall be punished for a criminal act by the fine to the amount KM 5,000.00 to 20,000.00.
2. If the commitment of a criminal act referred to in Paragraph 1 has resulted in a substantial financial gain or has caused a substantial damage, and the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, the perpetrator shall be punished by the fine to the amount KM 5,000.00 to 50,000.00 or by imprisonment up to three years.

## **CHAPTER XVII - MISDEMEANOURS**

### **Article 125**

1. Any legal entity shall be punished for a misdemeanour by a fine amounting from KM 5.000,00 up to 50.000,00 if it:
  - a) without the author's authorisation, and under its own name or under the name of another person publishes, presents, performs, transmits or otherwise communicates to the public somebody else's author's work or allows it to be done;
  - b) without the author's authorisation destroys, deforms, distorts or otherwise modifies the author's work, or uses it in a manner which is offensive to the author's honour or reputation;
  - c) without indicating the name or the pseudonym of the author, except where the author wants to be anonymous, publishes, presents, performs or otherwise communicates to the public his/her work;
  - d) without the authorisation of the author or other copyright proprietor, the association of authors or other legal entity specialised for the administration of copyrights referred to in Article 87, where such authorisation is required under the provisions of this Law, or, contrary to their prohibition, publishes, reproduces or multiplies, imports or distributes the original or the copies of the work, presents, performs, records, broadcasts, communicates through mass media, translates, adapts, arranges, or otherwise alters the author's work or uses it in any other form;
  - e) without the authorisation of the author or other copyright proprietor, the association of authors or other legal entity specialised for the administration of copyrights referred to in Article 87, where such authorisation is required under the provisions of this Law, or, contrary to their prohibition rents the original or the copies of the computer program, the cinematography and analogous work or of the work embodied in the phonogram.

2. The responsible person in a legal entity shall be also punished for the misdemeanour referred to in Paragraph 1 by a fine amounting from KM 5.000,00 up to KM 20.000,00.
3. If the misdemeanour referred to in Paragraph 1 has been committed by a natural person, she/he shall be punished by a fine amounting from KM 5.000,00 up to KM 20.000,00.

#### **Article 126**

1. Pecuniary fine to the amount of KM 5,000.00 to KM 50,000.00 shall be pronounced to a legal entity for a misdemeanour if it:
  - a) without the performer's authorisation, and under its name or under the name of another, publishes, presents, performs, transmits or otherwise communicates to the public somebody else's performance or allows it to be done;
  - b) without indicating the name or the pseudonym of the performer, except where the performer wants to be anonymous, publishes, presents, transmits or otherwise communicates to the public his/her performance;
  - c) without the performer's authorisation, destroys, deforms, distorts, or otherwise modifies his/her recorded performance, or uses it in a manner which is offensive to the performer's honour or reputation;
  - d) without the authorisation of the performer or other performer's right proprietor, the association of performers, or other legal entity specialised for the administration of the performers' rights referred to in Article 106, where such authorisation is required under the provisions of this Law, or, contrary to their prohibition, broadcasts or communicates the performance to the public, records the performance, reproduces the recorded performance, imports, distributes or rents the original or copies of the recorded performance;
2. The responsible person in a legal entity shall be also punished for the misdemeanour referred to in Paragraph 1 by a fine amounting from KM 5,000.00 up to KM 20,000.00.
3. If the misdemeanour referred to in Paragraph 1 has been committed by a natural person, she/he shall be punished by a fine amounting from KM 5,000.00 up to KM 20,000.00.

#### **Article 127**

1. A legal entity, which without the authorisation of the producer of a phonogram, where such authorisation is required under the provisions of this Law, or, contrary to their prohibition, reproduces, imports, distributes or rents the original or the copies of the phonogram, shall be punished for a misdemeanour by a fine amounting from KM 5,000.00 up to KM 50,000.00;
2. The responsible person in a legal entity shall be also punished for the misdemeanour referred to in Paragraph 1 by a fine amounting from KM 5,000.00 up to KM 50,000.00.
3. If the misdemeanour referred to in Paragraph 1 has been committed by a natural person, s/he shall be punished by a fine amounting from KM 5,000.00 up to KM 20,000.00.

#### **Article 128**

1. The legal entity shall be punished for a misdemeanour by a fine amounting from KM 5.000.00 up to KM 50,000.00 KM, if it:
  - a) without the authorisation of the broadcasting organization, where such authorisation is required under the provisions of this Law, or contrary to its prohibition, re-broadcasts or records its broadcast, reproduces the recording of its broadcast or communicates to the public its television broadcast;

- b) without the authorisation of the lawful distributor of the encrypted satellite signal manufactures or assembles, modifies, imports, exports, sells, rents or otherwise distributes a tangible or intangible device or system for decoding such a signal, if such a device or system is primarily used for decoding the encrypted satellite signal;
  - c) receives an encrypted satellite signal that has been decoded without the authorisation of its lawful distributor or further distributes such a signal.
2. The responsible person in a legal entity shall be also punished for the misdemeanour referred to in Paragraph 1 of this Article by a fine amounting from KM 5,000.00 up to KM 20,000.00.
3. If the misdemeanour referred to in Paragraph 1 of this Article is committed by a natural person s/he shall be punished by a fine amounting from 5,000.00 up to 20,000.00 KM.

#### **Article 129**

1. A precautionary measure shall be ordered comprising the seizure of the objects intended or used for, or resulting from the commitment of misdemeanours referred to in Articles 125, 127 and 128, irrespective of whether they are the property of the perpetrator or not.
2. The decision relating to the misdemeanour referred to in Paragraph 1 shall order the destruction of the seized objects.

#### **Article 130**

1. A legal entity which doesn't submit complete information on the performance or on the presentation of the work to the association of authors or to other legal entity specialised for the administration of authors' rights, shall be punished for a misdemeanour by a fine amounting from KM 3,000.00 up to KM 30,000.00 KM.
2. The responsible person in the legal entity shall be also punished for the misdemeanour referred to in Paragraph 1 by a fine amounting from KM 3,000.00 up to KM 15,000.00.
3. If the misdemeanour referred to in Paragraph 1 is committed by a natural person s/he shall be punished by a fine amounting from KM 3,000.00 up to KM 15,000.00 KM.

#### **Article 131**

1. A legal entity which doesn't submit complete information on the use of the performance, or the copy of the performer's contract to the association of performers or to other legal entity specialised for the administration of performers' rights, shall be punished for the misdemeanour by a fine amounting from KM 3,000.00 up to KM 30,000.00.
2. For the misdemeanour referred to in Paragraph pecuniary fine to the amount from KM 3,000.00 to KM 15,000.00 shall be pronounced to:
  - a) a responsible person in the legal entity;
  - b) a natural person.

#### **Article 132**

1. A legal entity which performs the activity of administering copyrights, performers' rights or rights of the producers of phonograms without the authorization of or contrary to the approval of the Institute shall be punished for a misdemeanour by a fine amounting from KM 5,000.00 up to KM 50,000.00.
2. For the misdemeanour referred to in Paragraph 1 the pecuniary fine to the amount from KM 5,000.00 to KM 20,000.00 shall be pronounced to:
  - a) a responsible person in the legal entity;
  - b) a natural person.

### **Article 133**

1. A legal entity which commits the misdemeanour referred to in Articles 125, 127 and 128 for the purpose of acquiring financial gain, shall be punished by a fine amounting from KM 20,000.00 up to KM 200,000.00.
2. The responsible person in a legal entity shall be also punished for misdemeanours referred to in Paragraph 1 by a fine amounting from KM 20,000.00 up to KM 200,000.00.
3. If the misdemeanour referred to in Paragraph 1 is committed by a natural person for the purpose of acquiring financial gain, s/he shall be punished by a fine amounting from KM 5,000.00 up to KM 20,000.00.

### **Article 134**

The Court of Bosnia and Herzegovina shall be in charge of conducting procedure on criminal acts and misdemeanours set out in this Law.

### **Article 135**

The assets collected on the basis of the fines for criminal acts referred to in Articles 120 through 124 and misdemeanours referred to in Articles 125 through 133 shall be paid to the account of the Budget of Bosnia and Herzegovina.

## **TRANSITIONAL AND FINAL PROVISIONS**

### **Article 136**

This Law shall apply to all authors' works and to all performers' performances in respect of which property rights have not ceased to exist up to the day this Law has entered into force.

### **Article 137**

This Law shall also apply to the phonograms and to the performances recorded thereon, the first recording of which took place within fifty years prior to the beginning of the calendar year in which this Law entered into force.

### **Article 138**

Procedures launched in line with Articles 111, 112, 114 and 115 for protection of the author's rights and performer's rights, which has not been completed by the day this Law has entered into force, shall be finalised in accordance with the regulations which were effective on the day the Law entered into force.

### **Article 139**

The Director of the Institute shall issue the Regulations on the criteria referred to in Articles 87 and 106 within the period of six months counting from the date of entry into force of this Law.

### **Article 140**

The Copyright Law (Official Gazette of the SFRY Nos. 19/78, 24/86 and 21/90), as well as legal regulations of the Entities regulating this matter which are incongruent to this Law, shall cease to be effective after this Law enters into force.

### **Article 141**

This Law shall enter into force on the eight day following its publication in the "Official Gazette of Bosnia and Herzegovina" and it shall be published in official gazettes of the Entities and Brcko District of Bosnia and Herzegovina.

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21 March 2002  
Sarajevo

Chairman of the  
House of Representatives  
BiH Parliamentary Assembly  
Zeljko Mirjanic, Dr.

Chairman of the  
House of Peoples  
BiH Parliamentary Assembly  
Sejfudin Tokic