

**LAW No. 04/L-065
ON COPYRIGHT AND RELATED RIGHTS**

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

LAW ON COPYRIGHT AND RELATED RIGHTS

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
The purpose of the Law**

1. This law regulates:

1.1. copyright that based on intellectual property which belong to authors with respect to their works in the literary, scientific and artistic domain;

1.2. copyright that based on intellectual property are related to the copyright below: the related rights and belong to:

1.1.1. performers with relation to their performances;

1.1.2. phonogram producers with relation to their phonograms;

1.1.3. movie producers in relation to their videograms;

1.1.4. audiovisual media service regarding their broadcasts;

1.1.5. database producers related to their data base;

1.1.6. publishers related to their publications;

1.3. administration of copyright and the related rights;

1.4. protection of copyright and the related rights;

1.5. the enforcement of this law to the foreign persons.

**Article 2
Principles of enforcement**

Administrative measures, inspection, the civil and criminal protection, prescribed by this Law shall be implemented according to the general rules of the administrative and legal procedures.

Article 3
The relation between the copyright and the related rights

1. The protection provided by this Law on the related rights does not interfere or overlap by no means with the protection of copyright.
2. The provisions of this Law regarding:
 - 2.1. the elements of the copyright, with the assumption of the authorship;
 - 2.2. the co-authors and authors of the interlaced works;
 - 2.3. the remuneration for the property rights and the right for special remuneration for private reproduction or their own reproductions;
 - 2.4. the relation between the copyright and the property right on the copy of work;
 - 2.5. the limitations of copyright, including the limitations;
 - 2.6. the calculation of the starting of protection term and the effect of conclusion of protection term of the copyright, as well as the assignments of author's right.
3. Shall apply mutatis mutandis to related rights.

Article 4
Definitions

1. Terms used in this law shall have the following meaning:
 - 1.1. **Audiovisual media service** - a service which is under the editorial responsibility of a media service provider and the principal purpose of which is the provision of programs in order to inform, entertain or educate, to the general public by electronic communications networks;
 - 1.2. **Collective association** - an association formed in accordance with the provisions of Part III of this Law, in order to carry out the tasks and activities of collective management of copyright or related rights;
 - 1.3. **Commercial scale** - such acts of a person, which are carried out for direct or indirect economic or commercial advantage, excluding acts carried out by end consumers acting in good faith;
 - 1.4. **Publication** - that a copyright work, or of a subject matter of a related right, was offered to the public with the consent of the right holder;
 - 1.5. **Moral rights** - the exclusive rights which protect the integrity of a copyright work and the personality of its author;
 - 1.6. **Office** - the Office on the Copyright and the related rights established in accordance with the provisions of this Law;
 - 1.7. **Possessor** - a natural person or legal entity who has the possession of an original work or a copy of a work;
 - 1.8. **Public** - a larger number of people who are outside the usual circle of a family or the usual circle of personal acquaintances;

1.9. **Publication** - that a sufficient number of 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;

1.10. **Videogram** - the recording of an audiovisual work or of a sequence of pictures with or without the accompanying sound on a picture or a picture and around carrier;

1.11. **Audiovisual work** - according to this Law shall include cinematographic, TV and animated works, short video-music pictures, advertising works, documentaries and other audiovisual works presented in a sequence of pictures with or without the accompanying sound, regardless the picture carrier where they are fixated;

1.12. **Computer programs** - according to this Law shall include any type of computer programs including the designed material prepared for its creation;

1.13. **Performers** - shall include artist, singers, musicians, dancers and other persons who through acting, singing, dancing, body language or movements, reciting, or other similar way perform works of authors or execute the folklore, as well as theatric director, the conductor of an orchestra, choir conductor, sound editors, and circus and varieties artists;

1.14. **Phonogram producer** - a natural person or legal entity who by its own initiative and responsibility is the first one to make the fixation of sounds or any performance or other sounds as well as other sound expressions. The phonogram producer may be considered a person, whose name, company; nickname or brand is marked in an ordinary manner in phonogram or is presented as such at the time of the publication of phonogram, until proven otherwise;

1.15. **Phonogram** - the recording of sounds of a performance or of other sounds, or of a representation of sounds, on a sound carrier, other that a soundtrack incorporated in an audiovisual work;

1.16. **Fixation** - the placement of sounds or of a representation of sounds into the sound carrier from where they can be listened to, reproduced or communicated through some equipment;

1.17. **Movie producer** - the natural person or legal entity who by its own initiative and responsibility is the first to fixate an audiovisual work into a videogram. The movie producer is considered to be a person, whose name, company, nickname or brand is marked in an ordinary manner in videogram or is presented as such at the time of the publication of videogram, until proven otherwise;

1.18. **Database** - the collection of independent works, data and materials of any form, administered systematically or methodically with separate access through electronic or other means where the obtain, verification or the representation of its content in terms of quality and quantity requires essential investment;

1.19. **Database producer** - the natural person or legal entity who by its own initiative and responsibility is the first to make an essential investment in the meaning of the sub-paragraph 1 of this paragraph. The database producer is considered to be a person, whose name, company, nickname or brand is marked in an ordinary manner in the certain database or is presented as such at the time of the publication, until proven otherwise.

CHAPTER II
SUB-CHAPTER A
COPYRIGHT

Article 5

The authors of works in the area of literature, science and art enjoy the protection regarding their works and its use in accordance with this Law.

Article 6

1. The copyright is an inseparable right of a work, which belongs to the author as a subject of an intellectual property for the protected work.

2. The copyright shall include:

2.1. personal exclusive authorisations to protect the invulnerability of a work of an author and his/her personality, hereinafter the moral rights of the author;

2.2. exclusive property authorisations to protect the property interests of the author hereinafter the property rights of the author;

2.3. other author's authorizations hereinafter: other author's rights.

Article 7

1. The author's right belongs to the author for the fact of the creation of that work.

2. In order to enjoy the right of the protection of the copyright, no administrative procedure is required to be fulfilled prior.

SUB-CHAPTER B
THE AUTHOR'S WORKS AND THE CONDITIONS OF PROTECTION

Article 8
Protected works

1. The works of the author shall mean the intellectual original properties of the literary, scientific and artistic domain represented in any form, if not otherwise provided by this Law.

2. The works of the author in particular are considered:

2.1. verbal works, such as speeches, lectures, narratives and other similar works represented verbally;

2.2. written works such as textbooks, brochures, daily newspapers, and other texts of the literary domain, scientific and professional literature as well as computer programmes;

2.3. music works with or without text, despite of whether they are presented through

musical notes or in any other form;

2.4. theatrical works, theatrical- musical and puppet theatre works including the radio-drama;

2.5. choreographic and pantomime works;

2.6. filmic and other audiovisual works;

2.7. photographic works and other works made through a similar process of the photography such as artistic photography, photo- montage, posters, photos of the reporters;

2.8. art works in the area of painting, sculpture, graphics and drawing;

2.9. architectural works such as charts, plans, templates and the buildings built based on architectural and engineering works, urbanism, panorama and interior design;

2.10. stenography works;

2.11. applicative art works as well as industrial and graphic design;

2.12. cartographic works in the area of geography and topography;

2.13. scientific, educational or technical presentations such as: technical drawings, graphics, charts, expertise, and three-dimensional presentations.

Article 9

The elements of the author's work

1. Unfinished works of the author, component parts of the work, as well as the title that are by itself original intellectual creations enjoy protection as much as the work itself.
2. The use of work title shall not be allowed if that title has been used before for the same type of work, if such title creates confusions regarding the authorship of work.

Article 10

Derived works

1. Work of an author shall be considered also the derived work processed or formed, if it fulfils the conditions referred to in paragraph 1., Article 8 of this Law.
2. Derived works shall mean translations, adjustments, arrangements, musical orchestrations and other processing of the existing work or material.
3. Protection shall enjoy also the translations of the legal texts, court decisions and administrative acts, if they are not made for official publication.
4. The author's rights of already existing works are not violated with the processing of these existing works.

Article 11

Collections of works

1. A work of the author shall be presumed to be the collection of the existing works of author or other materials which by selection, adjustment and coordination of their content represent original intellectual property, respectively a genuine work such as: encyclopedia, anthologies, and

collections of quotes, poetries or works on prose, collection of folkloric expressions, documents and court decisions.

2. A collection shall be considered also a database of genuine works, data or other arranged materials, systematized in a methodic way with separate access through electronic means or others.

3. The protection according to this Article does not apply for computer programs used for developing or operationalising of electronic database unless they are genuine creations.

4. With the overlaping of the existing works, the rights of authors of this authorial works will not be violated. With overlaping in the collection, the existing material will not become a protected work.

Article 12 Creation without the protection

1. Legal protection of the copyright shall not include:

1.1. ideas, principles, instructions, procedures, discoveries or mathematical concept as such;

1.2. laws, sub legal acts, and other regulations;

1.3. official materials and publication of parliamentary bodies, government and other organizations which carry out public functions;

1.4. official translations of regulations and other official materials as well as of international agreements and of other instruments;

1.5. submissions and other acts in administrative and judicial proceedings;

1.6. official materials published for public information;

1.7. folkloric expressions;

1.8. headlines and different information of media of ordinary reporting nature.

SUB-CHAPTER C AUTHOR

Article 13 Natural person

An author is the natural person creating the work.

Article 14 The assumption of authorship

1. A person whose name or firm, pseudonym or mark appears in the customary manner on the copy of a certain work or is so indicated at the time of disclosure of that work shall be presumed to be the author of the work, until proved otherwise.

2. The copyright of the disclosed works with pseudonym or mark, whose author is anonymous, shall enjoy the publisher, until the author's identity is disclosed. In cases when the publisher is anonymous too, the rights shall enjoy the person disclosing the work.

3. The paragraph 2. of this Article will cease to apply if the identity of the author is proved.
4. The right holder according to the paragraph 2. of this Article, shall refer to the author the benefits derived from the copyright, if not otherwise provided by this Law. The rights acquired from third persons remain in force.

Article 15 Co-authors

1. If the work of an author is created in cooperation with two or more persons, these persons shall be considered as co-authors.
2. The copyright on the work created by co-authors belongs to all co-authors and it is administered by their joint consent, if not otherwise provided by this Law or contract.
3. The co-author can not object his consent for publication or use of the work without any reason.
4. Co-authors shall not administer the rights separately, if an agreement was not reached among them prior.
5. The relation between co-authors regarding their portion of property benefits is determined based on the proportion of their contribution during the creation of the work, unless otherwise provided by contract.
6. If any of the co-authors gives up his/her part of the property remuneration, the parts of other co-authors shall be added in proportion to the initial amount.

Article 16 Authors of combined works

1. When two or more authors merge their works with the purpose of joint use or some other form of use, each of them enjoy the right of author for his own contribution.
2. Relation between the authors of combined works shall be regulated by contract.
3. Provisions of Article 15, paragraph 3. through 6. of this Law, shall apply mutatis mutandis for the authors of combined works.

SUB-CHAPTER D MORAL RIGHTS

Article 17 The right to first publication

1. The author has the exclusive right to decide as to when and where and in which manner the work will be disclosed for the first time.
2. The author holds the exclusive right to communicate his works to the public or describe the content of work while the work has not been disclosed with his authorisation.

Article 18 The right to recognition of authorship

1. The author holds the exclusive right to be recognised and marked as the author of work.

2. The author holds the right to decide whether the authorship should be disclosed by name, pseudonym or mark.

Article 19
The right of the integrity of work

The author holds the exclusive right to object any type of deformation, or other intervention in his work as well as any type of use if such intervention would in any way prejudice his innovative reputation and respect.

Article 20
The right to remorse

1. An author can revoke his property right assigned to others if there are serious moral reasons for that, on condition that the right holder is compensated for the damage caused by such revocation of right.

2. When the right of remorse applies, the property rights of the right holder cease to be valid. This shall apply from the time of the payment of remuneration.

3. The right holder shall inform the author for the amount of damage from such revoke of the right, within three (3) months from the moment of notification. If the right holder fails to do so, the right to remorse applies at the expiry of term.

4. If the author later decides to again assign the rights for use of his work and if ten (10) years are not yet fulfilled from the use of the right of remorse, he should first offer these rights to the previous right holder under the previous conditions

5. The provisions of this Article shall not apply for computer programs, audiovisual works and database.

SUB-CHAPTER E
PROPERTY RIGHTS

Article 21
The right for use and its forms

1. The author holds the exclusive right to property use of his work in any form as well as to allow or prohibit the use of their work to other persons if not otherwise provided by this Law.

2. Other persons can use the work of an author only with the authorisation of author for transferring the exclusive rights and under conditions specified by him if not otherwise provided by this law.

3. For any transfer of rights for use of work, the author is entitled to remuneration if not otherwise provided by this law or contract.

Article 22
Use of work

1. The work of an author shall be used in thematic, non thematic and modified form.

2. Use of works in thematic form includes in particular the exclusive author's rights as below:

2.1. the right of reproduction;

- 2.2. the right of distribution;
- 2.3. the right of leasing,
3. The use of work in non thematic form includes in particular the exclusive author's right as below:
 - 3.1. the right for public interpretation;
 - 3.2. the right for use by "Audiovisual media service";
 - 3.3. the right for public communication through phonograms and videograms;
 - 3.4. the right for public disclosure;
 - 3.5. the right for making the work available to public.
4. The use of work in modified form includes in particular the exclusive rights of author as shown below:
 - 4.1. the right for reproduction;
 - 4.2. the right for audiovisual adaptation.

SUB-CHAPTER F USE OF WORK IN THEMATIC FORM

Article 23 The right for reproduction

1. The right for reproduction is an author's exclusive right to authorize or prohibit fixation of his work or copies of work in thematic carrier made directly or indirectly, temporary or permanently, in any mode or form, entirely or partially regardless the number of copies.
2. The reproduced work made by graphic multiplying, three dimensional reproduction, merge, photography, audio or video fixation, electronic recording.
3. Construction of architectural building is considered as a reproduction act.

Article 24 The right of distribution

1. The right of distribution is an exclusive right of the author to authorize or to prohibit the putting into circulation of the original or copies of his work, by sale or any other form of transfer of ownership, including their offering to the public for such purpose.
2. By first sale or other type of transfer of ownership in an original or a copy of work made by the author or his authorization, the right of distribution in respect to such original or copy of a work is exhausted in the territory of the Republic of Kosovo.

Article 25 The right for leasing

1. The right for leasing is an exclusive right of the author to authorise or prohibit that the original or copies of his work are put in use for a certain term, through direct or indirect property benefits.

2. Provisions from paragraph 1. of this Article do not apply for the use of:
 - 2.1. constructed architectural building;
 - 2.2. original or copies of works of applicative arts and industrial design;
 - 2.3. the original or copies of work, when viewed on the spot within the facilities of institution.
3. The author that his right for leasing has assigned to a phonogram film producer holds the right to remuneration from leasing.

SUB-CHAPTER G USE OF WORK IN NON-THEMATIC FORM

Article 26 The right for public interpretation

1. The right for public interpretation is an exclusive right of the author to authorise or prohibit the public reciting, public musical interpretation, or public disclosure of his work.
2. The right for public reciting is the right of communicating the written or verbal works through reciting or reading directly to public.
3. The right to public music interpretation is the right for communicating the music work through direct interpretation to public.
4. The right to public disclosure is the right of communicating the scenic works directly to public.

Article 27 The right for public communication

The right for public communication is an exclusive right of the author to authorise or prohibit that the reciting, performance, or disclosure of his work are made available to public, abroad or outside source space, through loudspeaker, screen or similar device.

Article 28 The right for public communication through phonograms or videograms

The right to public broadcasting through phonograms and videograms is an exclusive right of the author to authorise or prohibit that his work fixated into phonogram or videogram is communicated to public through technical devices or audiovisual reproduction.

Article 29 The right to public disclosure

The right to public disclosure is an exclusive right of the author to authorise or prohibit, by technical devices the communication to public of his audiovisual work, photography, figurative works, the works of applicative arts and industrial design, choreographic works and scientific or technical presentations

Article 30 Broadcast and Rebroadcast of audiovisual program content

1. Audiovisual media services licensed by the Independent Media Commission - IMC as well as cable operators and other operators that regardless of technology they use offer audiovisual content are obliged to broadcast and rebroadcast programs based on valid copyright agreements.

2. Copyright agreement dealing with the broadcast and rebroadcast of audiovisual programs will be valid only after they have been registered by the collective associations licensed by the Office for copyright in the Ministry of Culture, in accordance with the Article 171. of this Law.

3. All complaints relating to violation of copyright during broadcast and rebroadcast of programs by the side of audiovisual content services will be prosecuted to the Independent Media Commission (IMC).

4. Failure to comply with the obligations and responsibilities by the side of audiovisual media services for broadcast and rebroadcast of programs, as defined by this Law, will be reviewed by the IMC in accordance with the provisions of the Law on Independent Media Commission.

Article 31 Encoded Programs

If the signals that carry programs are encoded/encrypted, communication to the public by the satellite or other platforms is performed with the condition that means for decoding of the transmission/broadcast are provided to the public by the audiovisual media service or with his approval/consent.

Article 32 The right of secondary broadcasting

The right of secondary broadcasting is the exclusive right of the author to authorize or to prohibit the communication to the public of a broadcast work or a work made available to the public, by a loudspeaker, screen or similar device.

Article 33 The right of making the work available to public

The right of making the work available to public is an exclusive right of the author to authorise or prohibit that his work is made available to public through linear and non-linear communication, in a way which enables access to individuals from place and time they choose.

Article 34 Use of work in modified form

1. Use of work in modified form includes:

1.1. the right of reproduction

1.1.1. the right of reproduction is the right of an author to authorise or prohibit the translation, scenic adaptation, musical adaptation or processing of his work in other ways with the purpose of creating a derived work.

1.1.2. the right referred to in paragraph 1. of this Article, shall apply also in cases when the work of author, in a unchanged way, is included or interlaced in a new work.

1.1.3. the author of source work holds the exclusive right for the processed version, if not otherwise provided by this law or contract.

1.2. the right for audiovisual adaptation

2. The right of audiovisual adaptation is an exclusive right of the author to authorise or prohibit that his work is adapted or used to be fixated into an audiovisual work.

**CHAPTER III
OTHER AUTHOR'S RIGHTS**

**Article 35
The right to access and exposure**

1. An author holds the right to access his original work or copy of it which is under the possession of other person, if he needs it for reproduction or processing if the reasonable interests of the possessor are not affected in essence.

2. The author has the right to require from the possessor his original photography or figurative work to submit it temporarily, for the purpose of exposure.

3. The possessor can temporarily submit the original of work in accordance with the paragraph 2. of this Article, on condition that the author provide sufficient financial guaranty or enters into a contract for securing to the amount of market value of the original.

4. The author shall ensure that the way of access to work or its exposure result in less concern for the possessor. In case of damage of the original or the copy or work, the author holds the objective responsibility even if not culpable of the damage.

**Article 36
The right for resale**

1. In case of resale of the original of an artistic work after its first alienation from the author, the author holds the right to be informed for the resale as well as the right to remuneration in the amount provided by this Article.

2. The obligation for remuneration referred to in paragraph 1. of this Article shall be fulfilled in solidarity by: the seller, buyer, and mediator who are dealing with the sale of artistic works.

3. Original of the artistic work as referred to in paragraph 1. of this Article are deemed to be considered : paintings, collages, drawings, wallpapers, sculptures, creations from ceramics and glass, photography and other artistic works. Copies for such works are considered as originals if created or authorised by author himself and are made in a limited number and as per rule, counted and signed by the author.

4. The remuneration from the right of resale shall be paid in the percentage of the sale price of the original work in the market, excluding tax, however on condition that the sale price exceeds two thousand (2.000) €.

5. The percentage referred to in paragraph 4. of this Article shall be determined according to subsequent units of the price, ensuring that the total amount of compensation is not higher than twelve thousand five hundred (12.500) €:

5.1. 4% of the part of sale price above two thousand (2.000) € to fifty thousand (50.000) €;

5.2. 3% of the part of sale price above fifty thousand (50.000) € to two hundred thousand (200.000) €;

5.3. 1% of the part of sale price above two hundred thousand (200.000) € to three hundred fifty thousand (350.000) €;

5.4. 0.5% of the part of sale price above three hundred fifty thousand (350.000)€ to five hundred thousand (500.000) €;

5.5. 0.25% of the part of sale price above five hundred thousand (500.000) €.

6. The right for resale shall not be a subject of abandonment or transfer during the life of the author, nor subject of mandatory execution.

Article 37

The right for public hire

1. The right for public hire is the right of an author with reasonable compensation, when the original or copy of his work is made available through public institution, to be in use for a certain period of time without direct or indirect property benefit.

2. Paragraph 1. of this Article shall not apply for the use of:

2.1. original or copies of work in school libraries at all levels;

2.2. architectural constructed buildings;

2.3. original or copies of work of Applicative arts and industrial design;

2.4. original or copies of work in the public institution facilities for the on spot view;

2.5. hiring purpose through public institution.

3. Public hire of the original and copies of computer programs and database is an exclusive right of the author.

Article 38

The right for special remuneration

1. If according to the nature of a Copyright work it may be used for private reproduction according to Article 44 of this Law in the form of making an audiovisual fixation, the author has a right to a portion of a special remuneration for such reproduction of his work.

2. Special remuneration under paragraph 1. of this Article with respect to sound or visual fixation shall be paid upon the first sale or importation of new blank audio or video fixation media.

3 Special remuneration under paragraph 1. of this Article, with respect to photocopying shall be paid:

3.1. upon the first sale or importation of new appliances for photocopying,

3.2. upon each photocopy made for sale, taking into account their probable number in one (1) year.

4. The terms audio or visual fixation and photocopying in this Article include other similar reproduction techniques

5. The right to special remuneration may not be waived or alienated during the life of the author, and is not subject to mandatory execution.

Article 39
Payment of the special remuneration

1. Persons liable to pay remuneration under the preceding Article 38 of this law are: manufacturers of appliances for sound or visual reproduction; manufacturers of appliances for photocopying; manufacturers of blank audio or video media as well as holders of appliances who are offering photocopying services against payment. Jointly liable with manufacturers are importers of appliances and blank audio or video media, unless such imports are intended for private and non-commercial use, as part of their personal baggage, de minimis imports.

2. Manufacturers referred to in the preceding paragraph 1. of this Article are not liable to pay remuneration with respect to such appliances or blank audio or video media which are made for exportation. The same applies for the importers of blank audio or visual appliances imported in the Republic of Kosovo and are exported without offering for sale first in the territory of the Republic of Kosovo.

3. Persons referred to in paragraph 1. of this Article shall, on request of a collective association administering those rights, submit data about the type and number of sold or imported appliances and blank audio or video media, as well as such information about the photocopies sold, as is necessary for the calculation of the special remuneration due.

Article 40
The amount of special remuneration

1. The entire amounts of the special remuneration under Article 38 of this Law, which belong to all beneficiaries entitled under this Law, shall be adopted by the Government of Kosovo. With a special contract between a collective association of rights and users, special tariffs for such remuneration may be provided for.

2. The amounts mentioned in the preceding paragraph shall be set separately: for each sound and visual fixation medium depending on the possible duration of the fixation including e.g. CD-ROMs, DVD-s and similar media; for each photocopy appliance including fax machines, scanners etc, depending on its capacity, number of copies per minute, and its capacity to make coloured copies, double the amount of black-and-white copying; as well as for each photocopy page

3. The amounts under paragraph 1. of this Article shall be determined in nominal money value. When setting these amounts, the probable extent of the application of effective technological measures on the market must be taken into account.

CHAPTER IV
LIMITATIONS OF AUTHOR'S RIGHTS

Article 41
Limitations of author's rights

1. Limitations of the author's rights shall mean that a work can be used:

1.1. without author's authorisation and related remuneration, hereinafter free use;

1.2. without author's authorisation, but with payment of due remuneration.

2. The limitations of the author's right shall apply only for cases provided by this Article explicitly, and the volume and way of use is limited to the served purpose, on condition that it does not contradict the normal use of work and the lawful interest of author are not violated.

3. If the use of works is authorised as per the provisions of this Article, the name of the author and source shall be written, unless it is objectively impossible or this law explicitly excludes it.

Article 42 **Free use and Implementation of official procedures**

Free use of works without the necessity to write the name of the author and the source of receipt shall apply when needed for public security or regular flows of action or reporting regarding the administrative and parliamentary and judicial procedures.

Article 43 **Teaching**

1. Only for the purpose of teaching illustration for schools of all levels, while within the domain of non-commercial aim, it is free:

- 1.1. public interpretation of published works if this is a direct way of teaching in school;
- 1.2. public interpretation of published works in school celebrations without payment, on condition that the performers are not compensated for such interpretation.
- 1.3. communication of works from phonograms and videograms for the purpose of teaching;
- 1.4. reproduction of short parts of published works for direct teaching purposes or exams;
- 1.5. further audiovisual broadcasting of school programs;
- 1.6. reproduction of audiovisual school programs in phonograms and videograms, only for the purpose of direct teaching within the facilities of educational institutions.

Article 44 **Private and own reproduction**

1. Within the meaning of Article 38 of this law, reproduction of published works is free if it is done up to three copies and if the conditions are fulfilled according to paragraph 2. and 3. of this Article.

2. Natural person can freely reproduce a work:

- 2.1. into any type of carrier, if this is done for private use only and without any direct or indirect commercial interest and if such copies are not distributed or communicated to public;
- 2.2. in paper or other similar carrier for the purpose of photocopy or other similar photographic techniques ;

3. Public libraries, archives, museums, and educational and science institutions can reproduce freely a work in any type of subject carrier if the reproduction is done from the copies they possess and without any direct or indirect commercial interest;

4. Regardless the provisions of paragraph 1., 2. and 3. of this Article, it is prohibited the reproduction of the written work in the complete book volume, music scores, electronic database, computer programmes and works of architectural constructions, if not otherwise provided by this law or contract.

5. Regardless the provisions of paragraph 4. of this Article, but in accordance with conditions referred to in paragraph 1. of this Article it is allowed:

5.1. complete reproduction of a book, if printed copies were sold at least two (2) years before;

5.2. the transcript of music scores with handwriting.

Article 45 **Transitional recordings**

1. Audiovisual media service authorised to broadcast a work, can carry out the recording of the same work freely, by its own means and for its needs.

2. Audiovisual media service can broadcast the referred broadcasting in paragraph 1. of this Article only once and shall delete it no later than within a month upon it is broadcasted.

3. The recording referred to in paragraph 1. of this Article can be handed over to a official archive on condition that it gets the extraordinary documenting character. The Audiovisual media service shall inform immediately the right holder regarding such hand over.

Article 46 **Persons with special needs**

Reproduction, distribution and communication of published work shall be allowed if it is in the benefit of persons with special needs. Such use is allowed on condition that is directly connected to persons with special needs and it is not done for direct or indirect commercial interest.

Article 47 **Ceremonies and celebrations**

Use of works during religious ceremonies and official celebrations organized by the public authorities is free.

Article 48 **Special cases of free use**

1. Are free the temporary reproduction acts of a work which are transitional or accompanying, are component and essential part of a technologic process, that are not of an independent economic relevance and its only purpose is to enable the work to:

1.1. to be broadcasted into a network among third parties, through mediators, or

1.2. to be used lawfully.

2. It is free the use of published work in other material, if it is included randomly and does not represent an essential element of such use.

Article 49 **The right for public information**

1. In order to have free access in the information of public nature, it is free:

1.1. reproduction, distribution and Communication of an audiovisual work that forms a component part of the event for which the reporting takes place, but without

exceeding the extent of the reporting for the event of the day;

1.2. reproduction and communication to public in a brief way, in the form of recession or other reference of the content of published works of an author;

2. Use of short parts fragmented from different comments and other Articles published in public media in the form of reflection of daily events.

3. Use of political and other speeches held in public debates to the extent of information purpose.

Article 50 Quotations

It is authorised to use fragmented parts of a foreign published work or the complete foreign work published in the domain of photography, figurative arts, industrial design, architecture, applicative arts and cartography if this is related to critics and elaborations of the work of the author on condition that it is done in accordance with the principles of consciousness and honesty.

Article 51 Free processing

1. The processing of work is allowed if:

1.1. it is related to private processing or other individual processing that is not available to public;

1.2. for processing in parody or cartoon and does not create or can not create confusion regarding the source;

1.3. if processing coincides the allowed use and lawful purpose.

Article 52 Catalogues

It is allowed the reproduction and distribution in the catalogue of exposed works of figurative arts, applicative arts, and industrial design and photography works published by an organiser to promote exhibition or auction, but excluding any direct or indirect commercial interest.

Article 53 Works placed in public places

1. Works placed in public places and other places where the general public access is allowed shall be used freely.

2. Use of works referred to in paragraph 1. of this Article is not allowed to be done in three dimensional form or for the same purpose of the source work, nor for direct or indirect commercial interest.

Article 54 Demonstration of equipment

In workshops, shops and repair warehouses, it is allowed reproduction of work in phonogram or video as well as communication of works to public, but only to the necessary extent for demonstrating the operation of equipments to be produced, sold or repaired in such facilities.

Article 55

Database

1. Lawful user of a published database or its copies may freely reproduce or apply changes in such database on condition that it is necessary to access its content and ordinary use of such content. If the user is authorised to use only one part of the database, this provision apply only to that related part.
2. Each contractual provision in contradiction with the paragraph 1. of this Article is not valid.

Article 56 Reading books and school textbooks

With the payment of relevant compensation, it is allowed the reproduction and obtain of fragmentations from the author's published work, respectively fragmentations of separately published works in the area of figurative arts, photography, architecture, applicative arts and industrial design as well as cartography, in reading books and school textbooks containing works of more authors and dedicated to teaching in schools of all levels.

Article 57 Comments of Audiovisual media service broadcasting organisations and press Articles

Upon payment of respective remuneration, it shall be lawful to reproduce by the press, communicate to the public or make available to the public published Articles on current economic, political or religious topics, or of broadcast works, or of other subject-matter of the same character, unless such use is expressly reserved by the right holder

Article 58 Broadcasting of works from published phonograms

The broadcasting of works from published phonograms shall be allowed, provided that broadcaster has prior to broadcasting concluded an agreement with the collective association on the amount, mode and term of payment of a remuneration

Article 59 Social institutions

With payment of related remuneration, it is allowed the reproduction and further broadcasting of emission of audiovisual media service in nursing homes, hospitals, prisons and other similar social institutions

Article 60 Security of the limitations of rights

1. If the right holder applies technologic measures within the meaning of the provisions of this law, he is obliged to make available to the beneficiary of the limitations of rights from Article 42 through 46 and Article 59 of this law, on his request, but not later than 14 (fourteen) days from the day of submission, means of use of these limitations, on condition that they are used only to the necessary extent and the beneficiary has lawful access in the protected work or subject matter of related rights.
2. If the right holder does not fulfil the obligation according to paragraph 1. of this Article, the user or the association of users can refer to the competent court.
3. The above paragraphs shall not apply:

3.1. if the right holder, voluntarily or as per the contract, made available to the user

means of using the limitations of such rights to the satisfactory and necessary extent;

3.2. to technologic measures applied during the fulfilment of obligations of office-holders of right from foregoing paragraphs of this Article;

3.3. for works made available to public according to contracted conditions, in the way made possible to public to have access from the place and time they choose on individual basis.

CHAPTER V LIMITATIONS OF TERM OF COPYRIGHTS

Article 61 Term of protections

1. The Copyright shall run for the life of the author and for seventy (70) years after his death.
2. Copyright in anonymous and pseudonymous works shall run for seventy (70) years after the lawful disclosure of the work. 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 preceding paragraph, the term of protection shall be laid down in accordance with the provisions of paragraph 1. of this Article.
3. Copyright on a co-author's work shall last seventy (70) years from the death of the last surviving co-author.
4. Copyright in collective works shall run for seventy (70) years after the lawful disclosure of the work, except if natural persons who have created the work are identified as such in versions of the work which are disclosed to the public.
5. In case of identified authors who are included in such works, the provisions of paragraph 1. and 3. of this Article shall apply.
6. When the term of protection does not run from the death of the author, and the work has not been lawfully disclosed, the copyright shall run for seventy (70) years from the death of author.
7. When the term of protection is calculated from the day of lawful disclosure of the work, and the work is disclosed in volumes, parts, installments, issues or episodes, the term of protection shall run for each such item separately
8. Insubstantial changes to the selection, adjustment or arrangement of the contents of a collection of works shall not extend the term of protection in that collection
9. The terms of protection laid down in this Article shall be calculated from the first day of January of the year following the event which gives rise to them.

Article 62 The effect of expiry of protection of terms

Upon the expiry of the term of protection, as provided by this Article, the protected work with copyright shall be transferred to public domain and is free for use.

Article 63 The right of publication and the right of withdrawal

The right of publication and the right of withdrawal referred to in Article 17 and 20 of this law shall run for the life of the author.

Article 64
The right of authorship and the integrity of work

Regardless the provisions of Article 61 and 62 of this law, the obligation for respecting the author's right, Article 18, and the right of the integrity of work, Article 19, shall run without any term limitation.

CHAPTER VI
TRANSFER OF AUTHOR'S RIGHTS

Article 65

The author can not transfer his moral rights to another person.

Article 66
Inheriting the author's right

The economic rights and other rights as well as application of moral rights which run after the death of the author, shall be transferred in accordance with the provisions on inheritance.

Article 67
Transfer of author's property rights

The property rights and other author's rights are component parts of the property of their holder and can be subject to legal transfer.

Article 68
The holder of property rights

1. The author is the first holder of all property rights and other rights related to his work.
2. Except the author, the right holder from paragraph 1. of this Article can be also natural person or legal entity to whom these rights are assigned on legal basis or by legal actions.

Article 69
Legal possession

The rights recognised to the author by law including their legal protection, belong to other right holder, to the extent and as per the type transferred by Law or by other legal actions unless otherwise provided by this Law.

Article 70
Execution

1. The author's right, incomplete work, not published originals and work manuscript can not be the object of execution.
2. Subject of execution can be only the property benefits from the author's right.

Article 71

The relation of the author's right with the property right

1. The author's right is a separate right from the property right on item where the author's right is included, if not otherwise provided by his law.
2. The separate transfer of the author's property rights and other rights on the work of the author shall not impact the ownership right on item where the author's right is included, if not otherwise provided by this law.
3. Legal transfer of item where the author's right is included shall not impact the special property rights and other author's rights on that work, if not otherwise provided by this law or contract.

Article 72

In the joint property of married persons fall only the property benefits deriving from the use of author's right.

Article 73

The owner of constructed architectural work can freely process that work.

Article 74

1. The owner aiming to exterminate the original of the work of author and has grounds to assume that the author has reasonable interest for saving the original, can not exterminate such original before having offered it to the author. The owner can not ask for more than the real value of the material.
2. If it is impossible to restore the original, the owner can exterminate it but he shall enable the author to make the copy of work with author's expenses.
3. The owner of the architectural constructed work can exterminate that work, but the author has the right to take photographs of it and request the submission of copies of plans on his own expenses.
4. Provisions of this Article shall not impact the protection of work according to provisions of Law on cultural inheritance.

Article 75

Contract for the author's right

1. The author can assign the property right to another person for use of his work by concluding a contract or other legal action, unless otherwise provided by this law.
2. The contract of the author's right includes in particular: names of contractual parties, title respectively identification of work, subject of contract, the rights, respectively mode of use, subject of transfer, the types of remuneration for the author, possible limitations of the content, possible limitations of territorial domain, and duration.
3. The provisions of law of obligations apply to the contract of author's right unless otherwise provided by this law.

Article 76

Volume of assignment of rights

1. The assignment of some property rights or other author's rights can be done with limitations in

content, territory and duration.

2. The assignment of property rights can be exclusive or non-exclusive:

2.1. exclusive assignment authorizes only the receiver of the right to use the author's work according to the mode established by contract, excluding all other persons, including the author.

2.2. non-exclusive assignment authorises the receiver of right to use the author's work according to the mode established by contract, along author and any person being office- holder of the author's right.

3. Regardless the provisions of paragraphs of this Article, the exclusive assignment of the rights for using a certain work shall not prohibit the author to use such work in his collection of selected works or in the collection of all his works.

4. Non-exclusive assignments, authorised by author prior concluding a contract for non exclusive assignment, remains valid toward the receiver of the exclusive right, if not otherwise provide by the contract between the author and receiver of exclusive right.

Article 77 **Assumption of the extent of assignment of rights**

1. If law or contract does not specify whether the assignment of rights is exclusive or non-exclusive, it shall be considered as non-exclusive.

2. If law or contract does not specify the territorial extend, it shall be assumed that the assignments applies only for the territory of the Republic of Kosovo.

3. If law or contract does not specify which rights are assigned, or to what extent a right is assigned, it shall be assumed that are assigned only those rights and to the extent that is essential to reach the aims of contract.

Article 78 **Further assignments of rights**

1. The person which through assignment has obtain the property right or other right of the author can not further assign such rights to a third person without the authorisation of the author, if not otherwise provided by contract.

2. The authorisation referred to in paragraph 1. of this Article is not necessary if further assignment is a result of sale, bankrupt or regular liquidation of the natural person who is the holder of the right.

3. The assignment of a certain right to use the work shall not mean the assignment of right with remuneration of author, in cases when the use of author's work can be done without author's authorisation but with obligation to pay the remuneration of author.

4. If further assignment, without author's consent is allowed by law or contract, the first receiver of the right and the new holder of right, hold the solidary responsibility toward the author for fulfilling the obligations deriving from contract of assignment.

Article 79 **Rules of separate assignment**

1. Assignment of a property right or other author's right shall not impact the assignment of other rights, if not otherwise provided by law or contract.

2. Assignment of the right for reproduction shall not mean the assignment of right to record it in electronic mode as well as the right for audio or video fixation, if not otherwise provided by this law or contract.

3. In case of assignment of right for leasing of phonograms, respectively videogram of the author's work, the author holds the right of remuneration for any type of work leasing. The author can not revoke this right.

Article 80 **Assumption of the attached assignment**

When the right of reproduction is assigned, it shall be assumed that also the right for distribution of its copies is assigned, unless otherwise provided by contract.

Article 81 **Assignment of the right for periodical publications**

1. If the author assign his rights in the form of including his work in the collection published periodically, it shall be assumed that the publisher win the exclusive right of reproduction and distribution.

2. In case referred to in paragraph 1. of this Article, the assignment shall be done exclusively after one year from the day of publication of periodic collection.

Article 82 **Invalidity**

1. The contractual definitions by which the author assigns the below rights shall be considered as invalid:

1.1. copyright as a whole;

1.2. moral rights;

1.3. property rights for all his future works;

1.4. property rights for yet unknown modes of use of his work.

Article 83 **Formality**

1. All contracts and other legal actions by which the property rights and other author's rights are assigned, or authorisations for use of works are given, shall be provided in written, if not otherwise provided by law.

2. In case of non-compliance with the paragraph 1. of this Article, all controversial or uncertain definitions of verbal agreement are interpreted in favor of the author.

Article 84 **Author's remuneration**

1. Author's remuneration can be determined: in the fixed rate, depending to the extent the work is used, depending on economic effects of use of work, on the size and quality of work or in

combination of all these methods, as well as taking into consider other conditions affecting its amount.

2. If remuneration of author is not determined by contract, it shall be determined according to ordinary payments for the type of work, according to the extent and duration of use as well as other circumstances.

Article 85

The right for revision of the disproportionate remuneration

1. If the profit from the use of work is in clear disproportion with the contracted amount in fixed rate, the author has the right to request amendment of contract, in terms of determining a fairer portion in profit.

2. The right referred to in paragraph 1. of this Article is prescribed within two (2) years term from the day of knowing about the existence of a disproportionate remuneration, latest within ten (10) years term after the right has been assigned.

3. Author can not resign from his right referred to in paragraph 1. of this Article.

Article 86

Obligation for record keeping

1. If the remuneration has been determined depending on the realised incomes deriving from use of work, the user of copyright shall by all means keep relevant books and other records, in order to verify the realised incomes.

2. The user of work is obliged to enable the author and his representative the control of records referred to in paragraph 1. of this Article, and within specified terms and once per year to submit accurate reports regarding the incomes.

Article 87

Revoke of property right

1. Author can revoke the property right given for use, if the right holder has use such right insufficiently or has not use it at all, and as a result, the interests of the author have been damaged clearly, if not otherwise provided by this law.

2. The author can not put into action his right of revoke before two (2) years have passed from the day of assignment of the right for use or has handed over the copy of work, if such hand over is done after the contract is concluded. If it is related to daily Articles, this term is three (3) months, and for periodical press is one (1) year.

3. The author can put into action his right of revoke only after having notify the receiver of the right for subsequent revoke and allow extra and additional time to use the given right.

4. The right for use of work ceases to exist from the moment of revoke.

5. The author shall compensate the receiver of right in a fair manner for the damage caused by the revoke of right.

6. Author can not resign from his right of revoke referred to in this Article.

CHAPTER VII
SPECIAL CONTRACTS ON COPYRIGHTS

Article 88
Scope of Publishing Contract

1. By concluding a publishing contract the author will assign the right to the publisher to reproduce his work by printing and the right for distribution of copies of work, and the publisher takes the responsibility of reproducing and distributing the work and pay the remuneration to the author thereof.
2. If the work is not published, based on the contract for work publication, it shall be assumed that the consent is given for such publication
3. The publishing contract shall authorise the publisher to translate the work in another language and reproduce and distribute it.
4. The contract on publishing, which scope is the publication of Articles, drawings, cartoons and other author's contributions in daily and periodical press is not necessary to be presented in written.
5. The author's representative can conclude contract on publishing only for those works specified explicitly in the author's authorisation.

Article 89
The content of contract

1. Contract on publishing in particular contains:
 - 1.1. the term within which the author is obliged to hand over to the publisher the manuscript or other copies of work, to enable the publication. If not otherwise provided by contract, this term shall include one (1) year from the day the contract is concluded;
 - 1.2. the term within which the publisher is obliged to release the copies for the market; If not otherwise provided by contract, this term shall include one (1) year from the day of receipt of manuscript or copies of work;
 - 1.3. the number of publications which the publisher is authorised to release. If not otherwise provided by contract, the publisher has the right for one publication;
 - 1.4. the term within which the publisher is obliged that after the exhaustion of first publication, is obliged to initiate the release for market of copies of future publication, if provided by contract. If not otherwise provided by contract, this term shall include one (1) year from the day author has require such publication;
 - 1.5. display and technical layout of copies of work.
2. If the compensation is set in percentage from the retail price of the sold copies, the publishing contract shall specify the printing of first publication. If that is not specified, it is assumed that the work is published in at least five thousand (5.000) copies.
3. If compensation is set in fixed rate, the contract shall specify the total printing of copies to be

published. If this is not provided by or does not result from the purpose of contract, professional habits and other circumstances, the publisher can reproduce and distribute up to five hundred (500) copies.

Article 90 **Obligations of the publisher**

1. The publisher is obliged to:

- 1.1. ensure the selling of copies and notify the author immediately, on his request.
- 1.2. to enable proofreading to the author, on his request, during relevant phases of the technical multiplication process;
- 1.3. during the preparations of future publication of work to enable the author to enter relevant amendments on condition that the nature of work is not changed and that taking into account the integrity of contract for the publication of work, to avoid disproportion in terms of the obligation of publisher.

Article 91 **Obligation to return the manuscript**

Manuscript and other original patterns handed over to the publisher shall be returned to author by all means, except Articles, cartoons, and other contributions in daily and periodic press, if not otherwise provided by such contract.

Article 92 **The right of publisher's priority**

1. The publisher who acquired the right to publish the work in book mode holds the right of priority that along other equal bidders, to publish such work in electronic way.
2. The right for priority referred to in paragraph 1. of this Article shall run for three (3) years from the day of contracting the publishing date. The publisher shall declare in written within thirty (30) days from the day of receiving the offer in written from the author.

Article 93 **Extermination of unsold copies**

If the publisher aims to sell the unsold copies of work as an old paper, he is obliged to offer it first to the author, according to the price for simple paper.

Article 94 **Extermination of work from force majeure**

1. If the only existing copy of work is exterminated by cause of force majeure after has been submitted to the author, the author holds the right for the same compensation, as if such work had been published.
2. If as a result of cause of force majeure, the entire edition was exterminated before launched in market, the publisher has the right to prepare a new publication, and the author is entitled to compensation for the exterminated publication.
3. If as a result of cause of force majeure a part of edition is exterminated before launched in the market, the publisher has the right without additional pay to multiply the same number of copies

with the number of exterminated ones.

Article 95 Termination of contract

1. Publishing contract terminates:

- 1.1. if the author dies before the completion of work;
- 1.2. if the copies of all contracted editions are sold;
- 1.3. when the term of contract expires;
- 1.4. when annulling the contract in accordance with law on obligation.

Article 96 Annulling of contract

1. If the publisher does not publish the work within the contracted term or within the term referred to in paragraph 1. of Article 89 of this law, the author has the right to annul the publishing contract, to retain respectively to request the remuneration pay and indemnity.

2. The author can annul the publishing contract if the publisher after having sold the edition of preliminary publication, although the contract includes the obligation for re-publication, does not initiate the launching in market of copies of future publication within the term referred to in paragraph 1. of Article 89 of this law.

3. The publisher can annul the contract if the author does not submit the manuscript or another copy of work within the term referred to in paragraph 1. of Article 89 of this law.

4. The edition is considered as sold if the number of unsold copies is less than one hundred (100).

Article 97 The contract on presentation and interpretation

The contract on presentation respectively interpretation of author's work shall specify the right of the user to present respectively to perform publicly his work, and the user takes the responsibility that such work is publicly interpreted within the specified term, according to the way and conditions provided by contract and pay the compensation to the author.

Article 98

The author can assign the right of presentation respectively the right of public interpretation of work simultaneously to several persons, if not otherwise provided by contract.

Article 99

The right holder of public presentation or interpretation of theatrical, theatrical-musical and choreographic work concludes contract on theatrical director, choreography, scenography and costumography.

Article 100

If the author does not submit his work to user within the contracted term, the user can annul the contract and ask for indemnity.

Article 101

Manuscript, scores or other originals of work subject to contract shall be returned to the author if not otherwise provided by contract.

Article 102

The user is obliged to enable the author to follow the flow of preparations regarding the presentation respectively interpretation of work, to ensure the technical conditions and submit the programme to the author or his representative and occasionally inform for the incomes from presentation respectively interpretation of work.

Article 103

If the user does not present or interpret the work within the contracted term, author can annul related contract and ask for indemnity, and in addition he can retain the compensation paid, which means to require the payment of contracted compensation

Article 104

The contract on work processing

By the contract on work processing of the author, the author assigns the right for his work to be published in the mode of scenic adaptation, audiovisual adaptation or of other modes of use of work in modified form.

Article 105

The contract on request of author's work

1. Through the contract for requesting the author's work, the author takes the obligation to create for the requester an author's work and to submit to him the original or copy of work, and the requester is obliged to pay remuneration to the author.
2. The requester can supervise the process of creating the work and provide instruction, without interfering in the freedom of artistic or scientific expression of author.
3. The requester enjoys the right of publication and distribution of work and the author retains other rights, if not otherwise provided by contract.
4. Provisions of this Article shall apply similarly mutatis mutandis also for the work that author created as a winner of public competition.
5. The general provisions of the right of obligations apply for the contract on the request of work similarly, if not otherwise provided by this law.

Article 106

Contract of collective works of the author

1. The collective work of author is the work created in cooperation of several authors, by combining their contribution separately into a work such as: encyclopedias, lexicons, database, computer programs, collections and other similar works, with the initiative and guidance of a natural person or legal entity as a requester of work.

2. In order to create a collective work, a special contract shall be concluded. If the conditions referred to in paragraph 1. of this Article are not fulfilled, such contract is not valid.

3. If not otherwise provided by contract, it is considered that the requester has been assigned with all unlimited and exclusive property rights and other author's rights of the collective work.

4. The requester of collective work of author enjoys the right to publish and use the work under his own name, however in each copy of work the list of participating authors shall be placed.

CHAPTER VIII SPECIAL PROVISIONS REGARDING SOME AUTHOR'S WORKS

Article 107 The right of audiovisual adaptation

1. By the contract of audiovisual adaptation of author's work, the author assigns to the film producer the exclusive right of processing his source work, to record and use it as audiovisual work.

2. If not otherwise provided by contract, it is considered that the author of source work assigns exclusively and without limitations to the film producer the right of adaptation of source work into audiovisual work, all property rights and other author's rights, translations as well as its audiovisual adaptations.

3. Regardless the provisions referred to in paragraph 2. of this Article the author of source work retains:

3.1. the exclusive right for further processing of audiovisual work in another artistic form;

3.2. the exclusive right to allow a new audiovisual adaptation of source work, but only after ten (10) years have passed from the date of contract is concluded as referred to in paragraph 2. of this Article;

3.3. the right of relevant remuneration from the film producer for every leasing of videograms of audiovisual works;

4. The author of source work can not resign from his right as referred to in paragraph 3. of this Article.

Article 108 Presumption of assignment

If a source work is created by two or more co-authors and only one of them has assigned his right to audiovisual adaptation, whereas the other or others have received their portion of the royalty, it shall be presumed that the other co-author or co-authors have assigned their rights in silence.

Article 109

For further assignment of the right for adaptation, the author's authorisation is not needed in cases when the film producer is not able to complete the work successfully.

Article 110

1. If not otherwise provided by contract, it shall be presumed that the film producer has the right to use the title of adapted audiovisual work for the title of audiovisual work.

2. The author of source work has the right to request that his name and the notification that the audiovisual work is done based on his work, are written in posters, cinema programmes and other advertising means.

Article 111

The contract of audiovisual adaptation can include a clause specifying that the author of source work has the right to see the screenplay before the beginning of production.

Article 112

Coauthors of audiovisual work

1. Audiovisual work is an independent integrity of creative contributions of co-authors as well as a work in which contributions of other authors are embodied but they are not considered as coauthors.

2. Coauthors of audiovisual works are considered: the author for adaptation, the author of dialogues, the director of photography and the main director.

3. If the music is composed specially for that work, the composer shall be considered as co-author of such work.

4. If the animation constitutes an essential element of the audiovisual work, the main animator is considered to be co-author of that work.

5. Music composer and animator that are not considered coauthors of work according to paragraph 3. and 4. of this Article, as well as scenograph, costumograph, makeup artist and editor are considered authors of related contributions in the author's work.

Article 113

Contract of film production

1. Mutual relations between film producer and the authors of audiovisual work and the authors of contributions as well as relations between co-authors themselves are regulated by the contract of film production.

2. With the contract of film producer, the authors of audiovisual work and the authors of contribution undertake the obligation toward film producer to cooperate in a innovative way in creating the audiovisual work and assign all the property rights related to that work, whereas the film producer takes over the obligation to pay remuneration to the author.

3. By entering into a contract for the film production, it shall be presumed that the coauthors and the authors of contributions exclusively and without limitations, have assigned to the film producer all property rights and other rights of audiovisual work, its translations in other languages and other audiovisual processing as well as photography related to the work, if not otherwise provided by this contract.

4. Regardless the provisions of paragraph 3. of this Article:

4.1. co-authors retain the exclusive right until the further processing audiovisual work in another artistic mode;

4.2. the authors of contributions retain the exclusive right that their contributions in audiovisual work after the completion of work are used separately from the

audiovisual work, if by that the rights of film producer are not infringed;

4.3. co-authors and authors of Contributions retain the right of relevant compensation from the film producer, for every leasing of videograms of audiovisual work.

5. Co-authors and authors of contributions can not resign from the rights referred to in paragraph 4 of this Article.

Article 114 Remuneration of the author

1. The remuneration of the author belongs to co-authors of an audiovisual work, separately for each property right, or other authors' right assigned to the movie producer.

2. The movie producer is obliged at least once a year to inform the co-authors of the audiovisual work on executed incomings for each authorized form of use of the work, and to enable them to see the data referring to the incomings.

Article 115 Completion of the audiovisual work

1. The audiovisual work is considered as completed when a consent is reached between the main director and film producer that the first standard copy is completed.

2. Any alteration of the first standard copy from paragraph 1. of this Article is not allowed to be carried out without the reached consent between the main director and the film producer.

3. Extermination of the first standard copy of the audiovisual work is not permitted.

4. If one of the co-authors or contributive authors does not want the full completion of his contribution on the audiovisual work or does not have the possibility to continue the cooperation, he cannot oppose the use of his so far contribution for the purpose of the work. In this case, the author enjoys the rights on his so far contribution.

Article 116 Annuling of the Contract

1. If the film producer does not manage to complete the audiovisual work for three (3) years from the day of entering into the contract for the film work, the co-authors have the right to annul the contract, unless otherwise provided by the contract.

2. Besides the right to annul the contract, co-authors of the audiovisual work have the right to indemnity, if the film producer does not start to use the completed audiovisual work within a year from the day of the completion of its first standard copy, unless otherwise provided by the contract.

3. In cases of paragraph 1. and 2. of this Article, the co-authors and authors of the contributions hold the right of remuneration.

Article 117 Rights on photography

When entering into a contract for the movie production, it is considered that the director of photography has assigned to the film producer all the rights to use the photographs taken during the production of the audiovisual work.

Article 118

Limitation of the rights

Author of the source work, who has assigned his right for audiovisual adaption, and the co-authors of the audiovisual work, and the authors of the contribution on the audiovisual work do not enjoy the right of remorse referred to in Article 20, and the right of revocation of the economical rights referred to in Article 87.

Article 119 Computer Programs

The ideas and principles constituting the base of any element of the program shall not enjoy protection, including those that constitute the base of the interface.

Article 120

If the author has created a computer program while fulfilling his duties or according to the instruction by his employer, respectively if the author has created a computer program based on the contract for request of work, it is considered that all authors' property rights and other authors' rights on that computer program were assigned exclusively and without limitations to the employer, respectively to the one requesting the program, unless otherwise provided by this contract.

Article 121 Copyright

1. The author of the computer program has the exclusive right to authorize or prohibit, especially:

1.1. reproduction of the consisting parts or of the computer program in its entirety, through any means or form, regardless if it is temporary or permanent. In case of the placement, exposure, operationalising, transmission or deposition of the program requires its reproduction to conduct these activities, the author's permission is a must;

1.2. translation, adaption, adjustment or any other processing of the computer program, and the reproduction of such alterations, but without affecting the rights of the person who made those alterations;

1.3. distributions of the original computer program or of its copies in any form, including its lease.

1.4. the author may also assign the rights from sub-paragraph 1.3 of this paragraph to the third persons with contract for issue of permission.

Article 122 Limitations of author's rights

1. Unless otherwise provided by the contract, the legal owner of the computer program, can carry out the activities under subparagraphs 1.1 and 1.2, and paragraphs 1 of Article 121 of this law without the authorization from the author, including the review of mistakes, but at the required measure which is necessary to the use of the computer program, in compliance with its purpose.

2. The person who enjoys the right to use the computer program may without the authorization of the author, make a back-up copy, provided this is necessary for its use.

3. The person having the right to use a copy of the 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 act of loading, displaying, running, transmitting or storing the program which he is authorized for.

4. Provisions on the right of remorse according to Article 20, the right to special remuneration according to Article 38 and the right to private or other internal reproduction according to Article 44 shall not apply to computer programs.

5. Contractual stipulations contrary to the provisions from paragraph 2. and 3. of this Article are null.

Article 123 Diffraction

1. The permission of the author is not necessary for the purpose of sub-paragraph 1.1 and 1.2, paragraph 1 of Article 121 of this law, on reproduction of the code or translation of its forms, when such reproduction or translation is necessary to extract the data on achieving the interaction of the created computer program with other programs or computer mechanisms, if the following conditions are met:

1.1. these activities to be carried out by the owner of the permit or other authorized user, or by another persons on their behalf ;

1.2. that the required information for the interaction was previously easily accessible to the persons from sub-paragraph 1.1, paragraph 1 of this Article;

1.3. that these activities are limited only on those parts of the existing program which are required for achieving the interaction.

2. It is prohibited that extracted information from activities of paragraph 1. of this Article:

2.1. are used for other purposes, other than for achieving the interaction of the independently created computer program;

2.2. are passed on to other persons, other than when this is necessary for achieving the interaction of the independently created computer program;

2.3. are used for creating, production or launch in the market of the other computer program, expression of which is essentially similar, or for any activity by which the author's right is violated.

3. Provision from paragraph 1. of this Article can not be interpreted in a way which would allow its implementation in contrary with the normal use of the computer program, or violating the legal rights of the author.

4. Contractual stipulations contrary to the provisions from paragraph 2. and 3. of this Article are null.

Article 124 Special protection measures

1. Violation of the author's right on the computer program is considered:

1.1. any distribution, including also the offer for the use of one or more copies of the computer program, which is known that it is or it could be an illegal copy.

1.2. possession of the copy of the computer program for commercial use, which is known

that it is or it could be an illegal copy.

Article 125
Application of other legal provisions

Provisions of this law on computer programs do not affect other legal provisions on computer programs, such as license, production brand, protection of semiconductors, protection from non loyal competition, official secret and the right of obligations.

Article 126
Author's work from working relationship

1. When the author's work is created from the employee during his working relationship, while fulfilling his work duties or according to the instructions given by the employer, its is considered that the property rights and other author's rights were assigned exclusively and without limitations to the employer, for a period of ten (10) years, from the completion of the work, unless otherwise provided by the employment contract or by another signed act with the employer.

2. Regardless of the provisions referred to in paragraph 1. of this Article, the rights will be returned to the employed author before the completion of such term, in case of employer's death, respectively in case of employer's liquidation as a legal person.

3. If the employer does not use the property rights on that work, or uses them in a negligible manner, the employed author has the right to ask from the employer to assign those rights to him, against compensation of expenses.

4. Unless otherwise contracted between the author and employer, the employee, as the author of the work enjoys the right to claim additional compensation from the employer, if his salary evident disproportion with the incomings and savings realized due to the use of the work.

Article 127

Regardless of other provisions of this Law, the author of the work holds the exclusive right to include his work on the collection of his selected works or on a collection of all his works.

Article 128

Property rights and other rights of the author related to the data base or with the collective work created during the working relationship, it is considered that they were assigned to the employer exclusively and without limitations, unless otherwise provided by the contract.

Article 129
Works created during the education

Educational institutions have the right to include on their school collection of works and to reproduce, full works of authors or parts of the pupils and their student's works, and to also reproduce and distribute these collections.

**CHAPTER IX
RELATED RIGHTS**

**SUB-CHAPTER A
PERFORMERS RIGHTS**

**Article 130
Moral rights of performers**

1. The performers have the exclusive right:
 - 1.1. their name, alias or mark to be shown when used for their performance;
 - 1.2. to oppose any disfiguration, deformity or use of the performance, which would, hurt their honor and fame.
2. If the performance is done by the ensemble of performers, the right from sub-paragraph 1.1 of paragraph 1. of this Article holds the ensemble as a whole, soloists and the artistic leader.
3. When assessing whether by one concrete form of use, performers honor and respect are hurt, reasonable measure of performer's sensitivity is considered.

**Article 131
Property rights of the performers**

1. The performer has the right to allow or prohibit:
 - 1.1. fixation of his direct performance;
 - 1.2. reproduction of his performance in phonograms and videograms;
 - 1.3. distribution of phonograms and videograms containing his performance;
 - 1.4. renting of the phonogram or videogram containing his performance;
 - 1.5. radio and television live transmission of his performance;
 - 1.6. public live transmission of his performance;
 - 1.7. processing of his already fixated performance;
 - 1.8. making his performance available to the public.

**Article 132
The right to compensation**

1. Performers have the right on their share in compensation that the producer of phonogram receives, for the public communication of their performance from the published phonogram for commercial purposes.
2. Performers who assign the right of renting to the producer of phonogram or movie producer, hold the right of relevant compensation from the rent. Performers cannot resign from this right.

3. Performer has the right of the share of special compensation from paragraph 2. of Article 38 of this law.

Article 133 Presumption of assignment

1. By entering into a contract for the film production, the performer shall be presumed to have assigned to the film producer, exclusively and without limitations, all property rights in his performance, unless otherwise provided by contract, exceptionally as defined in paragraph 3. of this Article.

2. For each transferred property right according to paragraph 1. of this Article, the performer has the right on remuneration from the film producer.

3. A performer cannot waive the right referred to in paragraph 2. of this Article.

Article 134 Completion of audiovisual work

If the performer refuses to complete his contribution for the audiovisual work, or he is not able to complete it, he cannot oppose for his already given contribution to be used for the full completion of the work. The performer enjoys the related rights for his contribution to that point.

Article 135 The representative of the performer's ensemble

1. Regarding the administration of the performer's rights, the performer's ensemble is represented by a person authorized in written by the majority of ensemble members.

2. If on the work performance, except the ensemble, the conductor, solists and main cast actors participate, who are not member of the ensemble at the same time, for the administration of the rights from this law, it is necessary the consent of all these persons, unless otherwise provided by the contract between them and the ensemble.

3. Provision of paragraphs 1. and 2. of this Article do not concern the conductors, solists and directors of theatre plays.

Article 136 Performance from working relationship

On the performances as a result of fulfillment of duties or orders from the employer during the employment term, similar and what belongs to them mutatis mutandis, provisions of this law are implemented, which refer to the author's works created during the working relationship.

Article 137 Term of protection

1. Property rights of the performer shall run for fifty (50) years from the conducted performance. If the performance fixated within this period was published in a legal form or was communicated to the public, performer's rights shall run for fifty (50) years from the day of first publication or first such communication, depending on which was conducted first.

2. Moral rights of the performer shall run without any limited timelines.

**SUB-CHAPTER B
RIGHTS OF PHONOGRAM PRODUCERS**

**Article 138
The rights of phonograms producers**

1. Phonogram producers have the exclusive right to allow or prohibit:
 - 1.1. reproduction of its phonograms;
 - 1.2. distribution of its phonograms;
 - 1.3. lease of its phonograms;
 - 1.4. making its phonograms available to the public;
 - 1.5. processing of its phonograms.

**Article 139
Right to remuneration for public communication of the phonograms**

1. Producer of phonograms shall have the right to remuneration for the communication to the public of his phonogram published for commercial purposes.
2. Unless otherwise provided by a contract between the producer of phonogram and the performers, producer of phonogram is obliged to pay half of remuneration from paragraph 1. of this Article to performers whose performances are one his phonogram.
3. For the purpose of this Article, phonograms made available to the public shall be considered as published for commercial purposes.

**Article 140
Right to special remuneration**

Producers of phonograms have the right to a portion of special remuneration from paragraph 1. of Article 38 of this law.

**Article 141
Term of rights**

Rights of the producers of phonograms shall run for fifty (50) years from the fixation time. If within this period the phonogram was legally published, the rights shall run for fifty (50) years from its first publication. If during this period the phonogram was not legally published but was legally communicated to public, the rights shall run for fifty (50) years from the day of the first legal communication to public.

**SUB-CHAPTER C
RIGHTS OF FILM PRODUCERS**

Article 142

Rights of film producers

1. Film producers have the exclusive right to allow or prohibit:
 - 1.1. reproduction of its videograms;
 - 1.2. distribution of its videograms;
 - 1.3. lease of its videograms;
 - 1.4. public display of its videograms;
 - 1.5. making its videograms available to the public.

Article 143 Right to special remuneration

Film producers enjoy the right of portion of special remuneration from paragraph 2. of Article 38 of this law.

Article 144 Term of rights

Rights of film producers shall run for fifty (50) years from the first fixation of the videogram. If during this period the videogram was published or communicated legally to public, the rights of film producers shall run for fifty (50) years from the day of its first publication or first communication to public, depending on which activity was conducted first.

SUB-CHAPTER D RIGHTS OF AUDIOVISUAL MEDIA SERVICE

Article 145 Rights of Audiovisual media service

1. An audiovisual media service shall have the exclusive right to allow or prohibit:
 - 1.1. the fixation of its broadcast;
 - 1.2. the reproduction of its fixated broadcasts;
 - 1.3. the distribution of fixations of its broadcasts;
 - 1.4. the radio television re-broadcasting of its broadcasts;
 - 1.5. further broadcasting of its broadcasts, if this is done in public places accessible with payment;
 - 1.6. making available its fixated broadcasts to the public.

Article 146 Term of rights

Rights of the audiovisual media service shall run for fifty (50) years from the day of its first radio television broadcast.

**SUB-CHAPTER E
RIGHTS OF THE DATA BASES PRODUCERS**

**Article 147
Protection of data base**

Protection of the data base or its contents is implemented despite the author-judicial or other judicial protection. The rights that exist regarding the interlaced material on the data base and its use remain inaccessible.

**Article 148
Target of protection**

1. For the purpose of this chapter data base protection is implemented:
 - 1.1. against the whole content of the data base;
 - 1.2. against each essential qualitative and quantitative part, and qualitative or quantitative of its content;
 - 1.3. against nonessential qualitative and quantitative parts and qualitative or quantitative of its content, when used respectively and systematically, which is in contradiction with the normal use of this data base or by doing this the existing legal interests of the data base producer are overly accessible.
2. For the purpose of this chapter, the protection does not include the computer programs used to develop or for functioning of the electronic data base.

**Article 149
Rights of the data bases producers**

1. Data bases producer has the exclusive right to allow or prohibit:
 - 1.1. reproduction of its data base;
 - 1.2. distribution of its data base;
 - 1.3. lease of its data base;
 - 1.4. making available its data base to the public;
 - 1.5. any other form of communication of its data base to public.

**Article 150
Rights and obligations of the legal users**

1. The legal user of the published data base or its copies can use freely in qualitative and quantitative manner non essential parts of its contents, for any purpose. If the user is authorized to use only one part of the data base, provisions of this Article will be implemented only for that part.

2. Legal use of the published data base or of its copy cannot conduct activities in contradiction with the normal use of that data base or where by doing this without any reason the rights of the data base producer would be accessed.

3. Legal use of the published data base or its copy cannot violate the author's right or the related rights for the interlaced works on that data base.

4. Any contractual definition in contradiction with this Article is not valid.

Article 151 Employment and order contract

When the data base was developed by an employed person fulfilling his work duties or based on the directions by his employer, or when developed based on the order contract, it is supposed that all the rights for that data base were assigned exclusively and without limitations to the employer, respectively to the person who placed the order, unless otherwise provided by this law or with contract.

Article 152 Limitation of rights

1 The legal user of published data base can use freely essential parts of its content:

1.1. for private use or other internal use, if it has to do with a non electronic data base;
1.2. for teaching illustration or science researches, with the condition to mention the source for non commercial use up to the allowed measure by law;

1.3. for public security needs or to secure the right continuance of activities and reports on the administrative, parliamentary and court procedures.

Article 153 Term of protection

1. Rights of data base producer shall run for fifteen (15) years from its complete development. If the data base was completed in legal manner during this period, the rights shall run for fifteen (15) years from its first publication.

2. Each essential qualitative and quantitative and qualitative or quantitative modification of the data base content that results with a new essential qualitative and quantitative investment, will qualify that data base with a new protection term.

SUB-CHAPTER F RIGHTS OF PUBLISHERS

Article 154 The right to the portion of special remuneration

1. Publishers have the right to the portion of special remuneration from Article 38, paragraph 3. of this law.

2. The right from paragraph 1 of this Article lasts fifty (50) years from the legal publication of the work.

Article 155 Unpublished works on public domain

1. A person who publishes legally for the first time and communicates the unpublished work to public and which goes to the public domain enjoys same protection as those of property and other author's rights.
2. Rights for the purposes of paragraph 1. of this Article shall run for twenty five (25) years from the first legal publication, respectively communication of the work to the public.

Article 156
Science publications

1. Publications consisting of works and texts with expired protection enjoy same protection as those for property rights and other author's rights, if they are a result of science attempts and are evidently distinguished from other previous publications of these works, through rhyme, split and other editorial characteristics.
2. Rights for the purposes of paragraph 1. of this Article, last thirty (30) years from its first legal publication of the work.

CHAPTER X

SUB-CHAPTER A
ADMINISTRATION OF RIGHTS

Article 157

1. The holder of author's right or of related rights, can administrate his rights individually or collectively.
2. Copyrights and the Related Rights are administrated individually, where for each author's work or subject matter of related rights the administration is conducted separately.
3. Author's right and related rights are administrated collectively, when administration covers a series of author's works or subjects from the related rights and at the same time a series of right holders related to them.

SUB-CHAPTER B
INDIVIDUAL ADMINISTRATION OF RIGHTS

Article 158

1. Individual administration of rights, are exercised by the holder personally or through his representative based on the relevant authorization.
2. Duties of the authorized representative can be conducted by a natural person or legal entity.

SUB-CHAPTER C
COLLECTIVE ADMINISTRATION OF RIGHTS

Article 159
Scopes of collective administration of rights

1. Collective administration of author's rights and related rights include:

1.1. non-exclusive assignment of rights for certain categories of author's rights and subject matters of related rights;

1.2. submitting requests and collection of remuneration for the use of specific category of the author's rights or subject matters of related rights;

1.3. distribution of collected remunerations to the right holders:

1.4. exercise control regarding the fulfillment of contractual and legal obligations by the users;

1.5. representation on realization of the protection of rights before courts and other bodies.

Article 160

The scope of activity of collective administration of rights

1. Collective administration of rights is allowed only on the protected subjects already published and on the cases dealing with:

1.1. communication to the public of non-theatrical musical works and literary works, small rights;

1.2. resale of originals of works of fine art, droits de suite;

1.3. public lending of originals or copies of works;

1.4. remuneration for private or other personal use and photocopying beyond the scope as defined on the provisions of this law;

1.5. cable retransmission of copyrighted material, except in respect of Audiovisual media service' own transmission, irrespective of whether the rights concerned are their own or have been assigned to them by other right holders;

1.6. reproduction of copyrighted material on phonograms and videograms, mechanical rights;

1.7. lease of phonograms and videograms;

1.8. reproduction of copyrighted material in readers and text books for the purpose of teaching;

1.9. reprinting of Articles on current topic in daily or periodical publications;

1.10. reproduction of works of fine arts, photographs and drawings in daily or periodical publications;

1.11. reprinting of parts of works or short literary works in daily or periodical publications;

1.12. reproduction and public communication of copyrighted material in commercials lasting no more than sixty (60) seconds;

1.13. reproduction of works in generally accessible places for commercial purposes.

2. The rights from the cable retransmission of copyrighted material, is exercised only through the

association for collective administration of rights, except in respect of Audiovisual media service own transmission, irrespective of whether the rights concerned are their own or have been assigned to them by other right holders;

Article 161 **Associations of collective administration of rights**

1. Collective administration of rights may be carried out through associations of the rights' holders, which have the authorization to conduct such activity from the Office for Authors' Rights and Related Rights.
2. For carrying out specific author's rights and holders of rights from the association for collective administration of data from paragraph 1 of this Article, the authorization from the author and the other right holders is required.
3. Authors' rights on the public plays of non performing musical works or literary works, known as small rights, can be administrated by the associations for collective administration of rights, even without the authorization by the author or the holder of the right.
4. The office for authors' rights and related rights, herein the Office, shall issue authorization to association for collective administration of the rights, which fulfil the professional and legal criteria defined by the Office.
5. If the associations for collective administration of rights does not meet the defined criteria to carry out such activities then the Office revokes the given authorization.

Article 162 **Scope and Status**

1. Within the scope and authorizations, the association for collective administration of rights ensures the authorization and protection of the authors' rights and related rights, of national and foreign holders of rights in Kosovo, and national holders of these rights outside Kosovo.
2. Collective administration of authors' rights and related rights is the only activity of the association for collective administration of rights.

Article 163

1. The association for collective administration of data is a legal subject, registered to administrate collectively the authors' right and related rights in Kosovo, and is governed by its members.
2. The association for collective administration of data has the status of a non governmental and non profit organization.
3. The association for collective administration of rights acts on its behalf and on behalf of the right holders.
4. The headquarters of the association for collective administration of rights has to be in Kosovo.

Article 164

1. The association for collective administration of rights is independent on its activity and on undertaking organizational measures and other required measures for its functioning, and for fulfilling the contractual and legal obligations.

2. The association for collective administration of rights is obliged to ensure the conditions for an effective and proper administration of rights and of the interest of right holders, including personnel, technical equipment and organizational schemes.

Article 165 Governance

1. The association for collective administration of rights is governed by the members, through its bodies and in accordance with the status.

2. Bodies of the association for collective administration of rights are: Assembly, Management Board and Supervisory Board.

3. The assembly of the association for collective administration of rights consists by all its members.

4. The assembly of the association for collective rights approves the decisions on the general session of members with the simple majority of votes.

5. The form and manner of decision making in assembly is defined by the status of the association for collective administration of rights.

Article 166 Statute

1. The statute is the highest basic and legal act that regulates the organization and functioning of the association for collective administration of rights.

2. All other legal acts have to comply with the statute of the association based on paragraph 1. of this Article.

3. The statute of the association for the collective administration of rights contains provisions which regulate especially:

3.1. objectives and duties of the association for the collective administration of rights;

3.2. type of right administrated collectively;

3.3. relationships with right holders ad rights users;

3.4. obtaining and losing the author quality;

3.5. identical categories of the right holders and membership categories;

3.6. members rights and the manner of voting according to the membership category;

3.7. obligations of the members and the rules of conduct;

3.8. governance system of the association;

3.9. essential principles on the distribution of incomings, right holders;

3.10.supervisory system of financial and economical administration ;

3.11. obligation for accountability against the right holders and the office;

3.12. informing the members and the public.

4. The statute is approved by the Assembly of Association for rights administration on a general session.

5. The statute is subject to approval from the Office of Author's Rights and Related Rights.

Article 167

General fees and fee agreements

1. Remuneration sums that need to be paid by the users for various forms of use of unprotected subjects are defined with general fees.

2. General fees are proposed by the Management Board of the association and after the Assembly of the Association approve them.

3. General proposed fees from paragraph 2. of this Article are subject to negotiations with users organizations of the same type of the protected subjects.

4. If the agreement is not reached during the foreseen negotiations in paragraph 3. of this Article, the involved parties in negotiations are obliged to propose the mediator.

5. If the mediator foreseen in paragraph 4. of this Article does not result with reach of agreement, the general fees according to this Article are subject to approve from the Government of the Republic of Kosovo.

6. If there is no users' organization of the same type of protected subjects, the individual user is subject to general approved fees.

7. General approved fees are published on the Official Gazette of Kosovo.

Article 168

Regulation on the distribution of incomings

1. Criteria and the manner of distribution of the collected remunerations by users of protected subjects are foreseen with the regulation for the distribution of remunerations.

2. Collected remunerations are distributed to the right holders, in proportion with the real share from the use of their protected subjects in total remunerations that the associations collected from the use of the protected subjects.

3. When defining the share of the rights holders on the total collected remunerations, is considered the category of protected subjects, their importance for cultural and historical development of the society, forms and measures of the use of protected subject and other factors which would reflect more exactly its range.

4. The Assembly of the Association for collective administration of rights approves the regulation for distribution of remunerations.

5. Distribution of the collected remunerations from the users of protected subjects is carried out at least once a year by the association.

6. Distribution has to be supported on exact data. In lack of them, or when ensuring them would be too much organizational and financial burden, the based evaluation resulting with reliable relevant facts is permitted.

Article 169

Cost of the association for collective administration of the right

1. In accordance with the statute and based on the decision by the Management Board, one portion of the collected incomes is divided to cover the expenses of the collective association for administration of rights.
2. The association in accordance with the statute and the decisions by the Assembly of the Association establishes the Fund for cultural activities of specific importance, health care and social status of its members.
3. For the fund foreseen in paragraph 2. of this Article, the association for collective administration of rights, divides 10% from the total amount of collected means, within one year from the users of the protected subjects.

Article 170

Evidence and Account

1. The association of collective administration of rights is obliged to keep and store evidences and following documents for all relevant fact related to the collection of remunerations and calculation of incomings and outputs.
2. The association for collective administration of rights keeps the accounts according to the relevant standards.
3. The association for collective administration of rights is obliged that for every previous year to compile annual working report with exact and comprehensive data, and reflection of relevant facts. This report is available to members.
4. At least thirty (30) members of the association for collective administration of rights may ask that one or more independent audit to conduct financial audit of associations' work.

Article 171

Office on the Copyright and Related Rights

1. Office on the Copyrights and Related Rights is an administrative body which was established and functions within the relevant Ministry of Culture.
2. Main activities of the Office includes:
 - 2.1. issue authorizations to associations for collective administration of rights;
 - 2.2. revocation of the issued authorization to the association for collective administration of rights in case they do not comply with the criteria foreseen by the law.
 - 2.3. supervision of activities of the Associations for collective administration of rights.
 - 2.4. promotion and undertaking of activities for giving necessary information to authors, right holders and the wide opinion on the copyright and related rights.
 - 2.5. following international legislation and giving recommendations in respect with the area of copyright and related rights.

Article 172

Issuing authorization for collective administration of rights

1. The office for copyright and related rights issues authorization for collective administration of rights to the association which:

1.1. has its headquarters in the Republic of Kosovo;

1.2. has relevant work space and professional service with at least one employee with Law degree;

1.3. collective administration of rights is exercised as its sole activity;

1.4. administrates on its behalf and on account of right holders;

2. The association does not have the right to complain against the decision of the Office to not issue the authorization, but a suit can be filed based on the administrative provision at the competent Court.

Article 173 Revocation of authorization

1. Revocation of issued authorization to the association for collective administration of rights is carried out by the Office if occurred events can be a cause of serious violation of this law's provisions. After revocation of authorization, the Office notifies the association for collective administration of rights on the reasons and gives a timeline of no less than thirty (30) days to eliminate the cause for revocation of authorizations.

2. The association does not have the right to complain against the decision of the Office for the revoking the authorization, but a suit can be filed based on the administrative provision at the competent Court.

Article 174 Obligation of use on providing information

1. Users of protected subjects and the obliged of payment for special remuneration, are obliged to enable association for collective administration of rights and to control the precise and on time fulfillment of signed contracts for collective administration.

2. Users of protected subjects are obliged to notify the association for collective administration of rights, on the title of protected subject, frequency and volume of its use, and other influential circumstances on the calculation of obligation on remuneration paid based on the fee, regardless that the protected subject is used based on the obtained authorization or based on this law.

3. When the authorization based on this law is needed, the organizers of the public, cultural, artistic or entertaining plays and other users of protected subjects are obliged to obtain in advance authorization from the association for collective administration of rights.

4. If the organizer of the public, cultural, artistic or entertaining plays and other users of protected subjects, does not possess authorization from paragraph 3. of this Article, the competent body of police of the Republic of Kosovo with the request by the right holder or the association for collective administration of rights, will stop the public play, respectively the use of protected subject.

5. Users of protected subjects, when they can be used without having to assign the right, are obliged to send to association for collective administration of rights once a month data on any form and frequency of use.

6. Audiovisual media service are obliged to send to the association for collective administration of

rights once a month reports on transmission of protected subjects during the previous month, while presenting the list of authors, performers and producers, titles of protected subjects and the frequency of their use.

7. If the organizer of the public, cultural, artistic or entertaining plays and other users of protected subjects, respectively the Audiovisual media service does not submit the information from paragraph 5. and 6. of this Article, is considered that he has violated the rights administrated by the association for collective administration of rights.

8. Owner of the original work of art, auction house, gallery or other agent is obliged to send to the association for collective administration of rights, data on alienated original, author of the work, salesman and the new owner of the work, and the price of sale of the original, within thirty (30) days from the resale date.

Article 175

Administrative supervision of the association of collective administration of rights works

1. The Office will supervise if the collective association carries out its functions in compliance with the law provisions.

2. The Office at any time may request from the collective association any type of information or documents related to the collective administration or collective administration of rights, in general or regarding a specific author, a specific work or user, and may inspect books or any other document related to the collective association or collective administration of rights, including function and expenses of special funds, if they exist.

3. The office may order the collective association to ensure the audit report for the company on any specific issue and within a defined set of scope by the Office, but no more than once a year, on collective associations expenses.

4. The office can nominate one or more of its representatives, who will attend meeting of assembly and other bodies of collective associations, with the right of speech, but without the right to vote.

5. The Office can issue obligatory instructions to collective associations.

Article 176

Mediation

1. Collective associations and representatives of users may propose on a basis of a mediation agreement, mediation in a dispute:

1.1. concerning conclusion of an inclusive agreement;

1.2. concerning conclusion of an agreement for cable retransmission of transmissions;

1.3. concerning:

1.3.1. use for the benefit of people with disability;

1.3.2. use for the purpose of teaching;

1.3.3. private or internal reproduction;

1.3.4. performance of official proceedings; and

1.3.5. ephemeral recordings made by broadcasting organizations.

1.3.6. agreement concerning the definition of general fees.

2. The mediator shall be independent, impartial and not bound by instructions.

3. The mediator shall ensure that all parties conduct negotiations in good faith and not hinder them without valid justifications.

4. The mediator may submit proposal to parties concerning the settlement of the dispute. The settlement proposal shall be deemed to have been accepted if the parties conclude an inclusive agreement for retransmission within three months following the receipt of the proposal.

5. Confidentiality shall be ensured during the mediation procedures.

6. The parties shall jointly choose the mediator from the list of mediators appointed by the Office.

7. The Office shall provide administrative assistance to the mediator.

8. The parties shall remunerate the mediator for his work.

9. The Office shall define, in greater detail, the mediation proceeding, as well as the degree of education of mediator, and other conditions that need to be fulfilled.

CHAPTER XI PROTECTION OF DATA

SUB-CHAPTER A PERSONS WHO ENJOY THE PROTECTION

Article 177

1. The person, whose protected rights by law have been violated, can ask for protection of his rights and relevant compensation depending on the violation.

2. Same protection of rights may be asked also when the danger of violation of the protected rights by this law is evident.

3. Foreseen protection from other legal provisions remains intact.

Article 178 Solidarity of parties

1. When there are more than one holder of one right that was violated and which is recognized by this law, each of them may ask for protection of such right in its entirety.

2. When there is more than one violator of a holder's right which is recognized by this law, each of them is responsible for the entire damage.

Article 179 Protection of technological measures

1. It is considered that one person has violated exclusive rights recognized by this law if he has done any type of activity to avoid the effective technological measures.

2. It is considered that one person has violated exclusive rights recognized by this law if

processes, imports for distribution, sales, lends, advertises for sale or lease or keeps for commercial technological purposes, means or computer program, or carries out services without authorization, which:

- 2.1. are advertised or traded especially for avoiding effective technological measures;
- 2.2. have evident commercial purpose or sole use on avoiding effective technological measures;
- 2.3. are designed, produced, adapted or processed above all for avoiding the effective technological measures.

3. For the purpose of paragraph 2. of this Article, technological measure is every technology, computer program, or another mean foreseen that during its normal activity, to prevent or hind the violation of protected rights. These measures will be considered as effective where entry or use of the author's work or the subject from related rights is checked through protection processes, by which, in operative and reliable manner, and with the authorization form the right holders, protection purposes are achieved.

4. This Article will be implemented similarly and to the extent that belongs to mutatis mutandis against other technology, mean or computer program, by which the electronic information of data administration is removed or modified.

Article 180 **Protection of information of rights conclusion**

1. It is considered that one person has violated the exclusive rights protected by this law when he carries out one of the below listed activities, by which he encourages, enables, facilitates or hides the violation of rights from this law, such as:

- 1.1. removal or modification of any electronic information regarding the rights administration;
- 1.2. reproduction, import for distribution, lease or communication to public of a protected subject, where the electronic information of rights administration was removed or modified without the relevant authorization.

2. For the purpose of paragraph 1. this Article, information of rights administration is considered every information entered by the right holder, by which the subject of right, duration and terms of use are identified, and their respective numbers and codes signed on the copy of the protected subject or appear when communication the protected subject.

SUB-CHAPTER B **JUDICIAL PROTECTION**

Article 181 **Claims**

1. When the exclusive rights granted by this Law were infringed, the right holder may claim:

- 1.1. finding of the existence of infringement of rights;
- 1.2. issuing of an injunction, prohibiting the continuation of the infringement and future recurring infringements, as well certain preparatory acts for such periodical infringements;

1.3. the goods created as a result of infringement, materials and implements principally used in the creation or manufacture of infringing goods, will be asked to be definitely removed from the market and destroyed at the expenses of the infringer;

1.4. recovery of material damages, meaning actual damages and lost profit, or special recovery.

1.5. recovery of non-material damages, suffers as a result of an infringement of moral rights;

1.6. the judgment of the court be published in full or in part in mass media, at the expenses of the infringer.

2. Provision of sub-paragraph 1.3. of paragraph 1. of this Article, insofar as they relate to the destruction, shall not apply to architectural buildings, unless the destruction of a building is justified by the circumstances of the case.

Article 182 Special recovery

1. In place of the recovery of material damage, the right holder may claim the infringer to pass to him the overall profit he had gain through the infringement of right.

2. When the exclusive right granted by this Law was infringed intentionally or by gross negligence, the right holder may claim the payment of a fee or remuneration customary for this type of use, and increase by up to double of such amount, irrespective of actual damages suffered by him, as a consequence of this infringement. If such infringement was committed for purposes of commercial gain, the right holder may claim a fee or remuneration in triple of such amount.

3. If the actual damage is in excess of the amount of damages mentioned in the proceeding paragraphs, the right holder has the right to claim the difference to full remuneration of the damage.

Article 183 Monetary remuneration for non material damage

Irrespective of any material damages remunerated from the infringer, the author or performer has the right to claim proper monetary remuneration for his violated moral rights.

Article 184 Precautionary measures

1. If the right holder shows probable grounds for belief that his exclusive right under this Law is infringed and that the recovery of damages is likely to be endangered, the court may, with right holders' claim, order the provisional seizure of alleged infringer's movable and immovable property, including the blocking of his bank accounts and other assets.

2. This measure includes also the power of the court to ask for and seize financial banking or commercial documents of the infringer, or proper access to respective information.

3. If the right holder shows grounds for belief that any delay in taking the provisional measures from paragraph 1. and 2. of this Article is likely to cause him irreparable damage, or that these measures 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*.

4. The procedure on precautionary measures is implemented within three (3) days from the day of filed claim.

Article 185 Provisional measures

1. If the right holder shows probable grounds for belief that his right under this Law is infringed, or that there is a threat of imminent infringement, the court may, on application of right holder, order any provisional measure which is capable of securing the right holder:

1.1. the injunction of an imminent infringement or of the continuation of an alleged infringement,

1.2. the seizure or removal of goods from delivery, suspected of infringing a right under this Law, to prevent their Access to the market,

1.3. the seizure or removal from flow of materials and means that are mainly used for procession or manufacturing of goods, suspected for right infringement based on this Law.

2. If the right holder shows grounds for belief that any delay in taking the provisional measures from paragraph 1. of this Article, may likely cause him irreparable damage, or that these measures may not be effective at a later time, the court may order and execute such measures without prior notification and hearing of the third party *inaudita altera parte*.

3. The procedures for ordering provisional measures are accelerated. The court shall order the provisional measures within seven (7) days from the day of filed claim.

4. In case of a claim for non payment of remuneration, the court shall adopt a provisional measure prohibiting further use of the protected subject.

Article 186 Preservation of evidence

1. By the claim from the right holder, who has based grounds that his exclusive right under this Law was infringed and that there is possible risk that the evidence of such infringement will be destroyed or that it will be impossible to obtain such evidence later, the court may order the storage and preservation of evidence.

2. The measures for the preservation of evidence may include the detailed description of the infringing goods, taking of samples or the physical seizure of the infringing goods, the inspection of places, the inspection or seizure of documents, inventory, databases or other items having evidentiary value relating to the infringement, the examination of witnesses, and the appointment and examination of experts.

3. If the right holder shows grounds for belief for delay in taking the measures from paragraph 2. of this Article and which may likely cause him irreparable damage or there is possible risk that the evidence of such infringement will be destroyed, the court may order and execute such measures without prior notification and hearing of the third party *inaudita altera parte*.

4. Court order granting measures for preservation of evidence without prior notification and hearing of the third party shall be served to the other party at the time when these measures are being executed, or if this is possible, as soon as possible after the execution of the measures.

5. Proceedings for the preservation of evidence are implemented within seven (7) days after the claim was filed.

6. Where it is subsequently found that the right holder's claim for reservation no evidence was without grounds, or that the right holder has not justified it, the other party shall have the right to claim:

6.1. return of the seized objects;

6.2. the prohibition of the use of information obtained through the execution of measures under this Article;

6.3. the compensation for any injury caused by those measures.

7. In the proceedings for preservation of evidence under this Article, the court shall ensure that confidential information of the parties is protected, and that such proceedings are not used in bad faith, with the sole purpose to obtain confidential information from the other party.

Article 187 Acceleration of proceedings

The proceeding for infringement of Copyright and related rights is quick. The Court shall open the first hearing session no later than within three (3) months from the day the claim was receipt.

Article 188 Competence

For the proceedings on the infringement of Copyrights and Related Rights decides the competent Court.

SUB-CHAPTER C MEASURES FOR THE ENFORCEMENT OF PROTECTION

Article 189 Duty to provide information

1. During the proceedings concerning the infringement of the rights recognized by this Law, and in response to a justified request from the claimant, the court may order that the infringer provides full information on the origin and distribution networks of the infringed goods.

2. The court may order that the information referred to in paragraph 1. of this Article be provided also by any other person who:

2.1. is in possession of the infringing goods on a commercial scale,

2.2. is using the infringing services on a commercial scale,

2.3. is providing on a commercial scale services used in infringing activities,

2.4. is indicated by any person from sub-paragraph 2.1., 2.2. and 2.3. of this paragraph, as being involved in the production, manufacture or distribution of the infringing goods or the provision of infringing services.

3. Any person failing to fulfill the duty to provide information according to the provisions of this Article shall be liable for damages that may be caused by such failure to comply

CHAPTER XII PUNITIVE PROVISIONS

Article 190

1. By a fine of no less than two thousand (2.000) to ten thousand (10.000) Euro shall be punishable the legal entity if within his activity or in business with others, uses a Copyright work or a subject matter of related rights without authorization.

2. By a fine of no less than five hundred (500) to two thousand (2.000) Euros shall be punishable the responsible person for the legal entity who commits a misdemeanor mentioned in paragraph 1. of this Article.

Article 191

1. By a fine of five thousand (5.000) to twenty five thousand (25.000) € shall be punishable for a misdemeanor any legal entity, if within the scope of its activity or in business cooperation:

1.1. commits any act of circumvention of effective technological measures of protection;

1.2. commits any act or removal or alteration of electronic rights management information.

2. By a fine of one thousand (1.000) to five thousand (5.000) Euro shall be punishable the person who commits the misdemeanor defined in paragraph 1. of this Article.

Article 192

1. By a fine of no less than five hundred (500) to twenty five thousand (25.000) Euro, shall be punishable for a misdemeanor any legal entity:

1.1. that does not submit to the competent collective association, information about the types and number of sold or imported devices for sound or visual fixation, photocopying devices, blank carriers of sound or image, as well as information about sold photocopies, which are necessary for the calculation of the special remuneration;

1.2. that does not submit to the competent collective association, in the manner and time limit as prescribed by this Law, the reports or information or programs, relevant for the calculating of the respective remuneration;

2. By a fine of no less than one thousand (1.000) to five thousand (5.000) Euro, shall be punishable for a misdemeanor any legal entity from paragraph 1. of this Article.

Article 193

1. By a fine of no less than four thousand (4.000) to twenty thousand (20.000) Euro shall be punishable for a misdemeanor a collective association of rights, if it:

1.1. does not keep or negligently operates records and accountancy.

1.2. does not to distribute to right holder the income, realized from royalties collected

from the users of protected matter;

1.3. does not follow the request for inspection of its activity through independent auditors;

1.4. does not fulfil its obligations to the office or does not take measures ordered by the Office for the correction of its work.

2. By a fine of no less than one thousand (1.000) to five thousand (5.000) EUR shall be punishable a responsible person of the collective association who commits a misdemeanor mentioned in paragraph 1. of this Article.

Article 194

The Articles gained by committing a misdemeanor from the above mentioned paragraphs shall be confiscated.

Article 195

The procedure for misdemeanors shall be initiated on the submission of complaint by the inspection body, the police, and the injured party, association for collective administration of rights or by the Office.

CHAPTER XIII PROTECTION OF FOREIGNERS

Article 196

1. Foreign natural or legal persons enjoy the same protection of copyright and related rights same as domestic persons, if international agreements or this law provide so, or in case that factual reciprocity exists.

2. Foreign authors and performers enjoy the same protection of moral rights recognized by this law.

3. Foreign authors of works of art enjoy the protection of this law regarding the resale of the right only when factual reciprocity exists.

Article 197 Authors

1 Protection under this law enjoys foreign authors:

1.1. who have permanent residence in Kosovo;

1.2. for their works published for the first time in Kosovo or within thirty (30) days after being published in another country;

1.3. for their works published for the first time in Kosovo;

1.4. for their architectural and art works, which in the territory of the Republic of Kosovo are real estate or are integral part of a real estate.

2. If the author's works was created by a couple of authors, all of them enjoy protection under this law, even when only one of them meets the conditions from paragraph 1. of this Article.

Article 198

Performers

1. Protection under this law enjoys foreign performers:
 - 1.1. who have permanent residency in Kosovo ;
 - 1.2. their performance is carried out in the territory of the Republic of Kosovo;
 - 1.3. whose performance was fixated in phonograms that enjoy the protection under this Law;
 - 1.4. their nor fixated performance on a phonogram, is included on a broadcasting emission that enjoys the protection under this Law;
2. If the work was created by a couple of authors, all of them enjoy protection under this law, even when only one of them meets the conditions from paragraph 1. of this Article.

Article 199 Other foreign holders of related rights

- 1 The protection under this Law shall enjoy other foreign holders of related rights which have their domicile or corporate seat registered in the Republic of Kosovo.
2. The protection under this Law shall enjoy the producer of phonogram and film producer if their phonogram or film was first done in the Republic of Kosovo.
3. The protection under this Law shall enjoy the publisher with respect to his related rights if his edition was first published in the Republic of Kosovo or within thirty (30) days of having been published in another country.
4. The protection under this Law shall enjoy the broadcaster that transmits his broadcast from transmitters located on the territory of the Republic of Kosovo.
5. The protection under this Law shall enjoy the data base producer, if this base was first done in the Republic of Kosovo.

Article 200 Communication to the public by satellite

1. The protection under this Law shall enjoy authors and holders of related rights whose works or subject matters of related rights are communicated to the public by satellite, when under the control and responsibility of a Audiovisual media service, the relevant programme-carrying signals are sent from the territory of the Republic of Kosovo, into an uninterrupted chain of communication, to a satellite and down to the Earth.
2. The protection under this Law applies also when the condition from paragraph 1. of this Article is not fulfilled, provided that:
 - 1.1. the uplink station from which program-carrying signals are transmitted is located in Kosovo, or
 - 1.2. the audiovisual media service which commissioned the communication to the public by satellite has its corporate seat registered in Kosovo

Article 201

Comparison of protection terms

For foreign holders of related rights who enjoy protection under this law, apply the defined terms of protection defined by this law, but they expire at latest on the day protection expires on their country of citizenship or where they have their residence or headquarters, and they cannot last more than the foreseen terms by this law.

Article 202

Persons without citizenship or refugees

1. Authors or right holders of the related rights who do not have citizenship or when the same cannot be verified, enjoy the same protection as native right holders of rights, if they have permanent residence in Kosovo.
2. If they do not have permanent residence or their residence cannot be verified, they enjoy the same protection as native right holders of rights, if they have temporary residence in Kosovo.
3. If they do not have permanent or temporary residence in Kosovo, they enjoy protection in Kosovo the same as the citizens of the countries where they have permanent or temporary residence.
4. Provisions of this law apply the same for authors and the holders of the related rights, who in accordance with international treaties or with the law in Kosovo enjoy the refugee status.

Article 203

Factual reciprocity

Reciprocity has to be proven by the person referring to it.

CHAPTER XIV

TRANSITIONAL AND FINAL PROVISIONS

Article 204

1. This Law shall apply to all authors' works and to all performers' performances and all transmissions of Audiovisual media service which, on its coming into force, still enjoyed protection according to the Copyright Law and other Related Rights No: 2004/45.
2. This Law applies to the phonograms and to recordings fixated on it, respectively the legal publication and its presentation to the public have not passed fifty (50) years, calculating from the beginning of the calendar year in which this Law entered into force.
3. This Law applies to videograms, transmission of audiovisual media service and publishers' publications, if they were first fixed, broadcasted or lawfully published after this law entered into force.
4. Procedures launched for protection of author's rights and related rights, shall continue according to the procedural provisions of this law.
5. Contracts on assigned rights, which have been concluded before the entry into force of this Law, cannot be changed with the argument of being in line with this Law.
6. All granted rights before entry into force of this law remain intact, while the normative acts of associations for collective administration of rights is implemented also after entry into force of this law, and its harmonized with the provisions of the same, in a period of six (6) months from the

entry into force.

7. The provisions of this law concerning the computer programmes and the data bases are implemented on computer programmes and data bases that have been created after entry into force of this law, if by doing so the signed contracts and the gained rights before this day remain intact.

8. With the accession of the Republic of Kosovo to the European Union the exhaustion of right of distribution, referred to in the paragraph 2. Article 24 of this Law, shall apply to any first sale or other transfer of ownership in an original or a copy of a work, made anywhere in the European Union or in the European Economic Area.

Article 205

With the entry into force of this Law, all other legal provision of the Law on Copyright and Related Rights No. 2004/45 and other sub legal acts deriving from this law cease to apply.

Article 206 Entry into force

This law enters into force fifteen (15) days after its publication on the Official Gazette of the Republic of Kosovo.

**Law No. 04/ L-065
21 October 2011**

Pursuant to the article 80, paragraph 5 of the Constitution of the Republic of Kosovo, Law shall be published in the Official Gazette of the Republic of Kosovo.